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Page 23





Shortly will be Published.

A VOLUME OF HISTORICAL MAPS.

**TO ACCOMPANY THE
HISTORY OF ENGLAND DURING THE
EARLY AND MIDDLE
AGES.**

WITH EXPLANATORY ESSAYS AND INDICES.

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A

~~History of England~~

Q

CB

NOY WAB
QUBH
YBAHBU

Figure 1 consists of three scatter plots arranged vertically, each showing the relationship between the number of children (X-axis) and the number of children in the household (Y-axis). The top plot shows a positive correlation with a regression line and a confidence interval. The middle plot shows a negative correlation with a regression line and a confidence interval. The bottom plot shows a positive correlation with a regression line and a confidence interval.

τὰ τῆς τύχης οὐκ ἄνευ φύσεως, ἢ συγκλώσεως καὶ ἐπιποκῆς τῶν προνοίᾳ
διοικουμένων.

MARCUS AURELIUS.

Wir tragen die Lasten unserer Väter, wie wir ihr Gutes empfangen
haben, und so leben die Menschen in der That in der ganzen Vergangen-
heit und Zukunft, und nirgend weniger als in der Gegenwart.

NOVALIS.

WIR TRAGEN
DIE LASTEN
UNSERER VÄTER

HISTORY OF ENGLAND
DURING THE EARLY AND
MIDDLE AGES.

BY CHARLES H. PEARSON, M.A.

FELLOW OF ORIEL COLLEGE, OXFORD.

VOL. II.



LONDON:
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YORK STREET, COVENT GARDEN.

1867.

p

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1490

WROY WAM
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PREFACE.

THE present volume, like its predecessor, is intended to serve as a handbook of English history, and makes no pretensions to be an exhaustive narrative. The period which it embraces is one of great constitutional importance, and one for which we possess copious materials. By the time these have been thoroughly sifted we shall probably understand the history of families and property, the chronological order of events, and even the gradual changes in the distribution of population and wealth, as completely as we know them for any times but our own. In all these respects there is no reason why history should be less certain than geology; and the discrepancies observed in the statements of conflicting historians are really evidence to the wealth of material, and promise positive results, when the whole field has been explored. It is true, that, when all this shall have been done, only the dry bones of the past will have been collected. The processes of that silent growth, by which the society of men has successively taken up new forms of life, never holding altogether by its past, nor altogether resigning it, must be comprehended by

insight even more than analysis, and demand the labours of many generations rather than of isolated students. There is, perhaps, another respect in which the historian is at exceptional disadvantage, inasmuch as he cannot, like the chemist or physiologist, test the truth of his theories by experiment. But under many disguises of laws and manners our nature remains true to the first principles of its humanity; and a modern war, the growth of a colony, or the immature civilization of a young state, may explain many old problems that have seemed insoluble. The "legend of the ages" is for all time; and if we can never understand it fully, we may hope, with every fresh sum of experience, to widen our comprehension of those whose actions and thoughts we have inherited.

While I regard the science of history as perpetually approaching a certainty, which it will only not reach, I make no claim for more than comparative accuracy in its present results. I believe we are at last on the right track; and in proportion as it is understood that the truth of facts thoroughly apprehended is more picturesque and various, as well as more real, than any *Fata Morgana* of an uncertain light, the method under which a vivid narrative from a chronicle has been preferred to a critical induction will gradually be confined to its appropriate sphere in the literature of fiction. It will be time to add in the warmth and colouring of history, when its outlines have been rigorously defined; and it is as a contribution to the earliest stages of advance, that I have tried to present the last results of

the best enquirers in a popular form. I have laid my predecessors freely under contribution; and desire to acknowledge my especial indebtedness to the histories of Dr. Pauli and Mr. Burton, to Mr. Hardy's invaluable labours on the reigns of king John and Henry III., and to Mr. Blaauw's excellent monograph on the Barons' War. If my notes occasionally contradict one or other of these authorities, it is not because I have often differed, but because it was needless to express agreement, and sometimes very important to explain the grounds of difference.

The student will perceive at a glance, that I have confined myself exclusively to the political side of history. In the chapter on the English Church, for instance, I have not attempted to sketch the variations of religious thought, or even to appropriate the labours, by which I have tried to profit, of Professor Brewer and Professor Stubbs, on the inner life of the great religious orders. It is necessary to my plan that I should treat such matters only in their results on secular society: and those who have leisure and inclination for fuller researches can easily refer to the sources I have indicated. It is difficult to be quite consistent in these matters, but, at the hazard of occasional meagreness, I have thought it better to confine myself to a single subject.

A part of this volume was already written, when I was compelled by illness to renounce study for a time and leave England. After all labours of revision, I am afraid that several passages may have been left uncorrected, and that there is some want of cohesion in

the general narrative. Even those who have not worked at our early history will easily understand the extreme difficulty of ensuring accuracy in cases where there is a conflict of good authorities. I see that the same name has sometimes received two different spellings in these pages. Orthography was very much optional in the Middle Ages; and there are several instances where a surname undergoes five transmutations in official documents of the same period. In one or two small matters I have offended deliberately. Finding it inconvenient to speak of the heir-royal by the usual mediæval formulæ of the "king's son," or the "king's eldest-born," I have adopted the modern title of "prince," which is partly borne out by official phraseology. In this too, as in the first volume, I have preferred the modernized form of a name, wherever it has become universal, and have not ventured to alter back Bruce and Athol into De Brus and Asceles. Where changes of this sort do not involve erroneous conceptions, I think it allowable to defer to popular use.

CHARLES H. PEARSON.

Oriel College,
Nov. 25, 1867.

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ERRATA.

- Page 11, l. 2, and p. 12, l. 7, *instead of* "Hawisa" *read* "Isabel." John's first wife is called Hawisa by Hoveden (p. 803, ed. Frankfort), but a royal rescript to the knights and free servants of Gloucester describes her as "Isabel, Countess of Gloucester, our cousin." Rot. Litt. Pat., p. 109.
- Page 26, note 1, l. 9, *instead of* "during service" *read* "doing service."
- Page 27, l. 28, *dele* full stop after "comes."
- Page 43, note 1, l. 2, *instead of* "Branbefeld" *read* "Brantefeld."
- Page 49, note 1, l. 9, *instead of* "Fioribus" *read* "Finibus."
- Page 53, l. 29, *instead of* "Literate" *read* "Liberate."
- Page 56, l. 11, *instead of* "whom" *read* "whose priory of Binham."
- Page 59, note 2, l. 26, *instead of* "Abbey of St. Alban's" *read* "Priory of Binham."
- Page 83, l. 4, *insert as note* 1, "This regulation was especially necessary, as John sometimes changed his court more than a dozen times in the year, and in one year (11 John) 'sat in no less than twenty-four different places.'" Foss, Judges, ii. p. 4.
- Page 119, note 1, l. 6, *instead of* "Gervase de Horbragge" *read* "Gervase de Horbridge."
- Page 158, l. 4, *instead of* "Ruin of Grosmont" *read* "Run of Grosmont."
- Page 178, l. 27, *dele* full stop after "Glanville."
- Page 179, l. 15, *instead of* "1227" *read* "1237."
- Page 270, l. 30, and p. 271, note 1, *instead of* "Gordon" *read* "Gurdon."
- Page 313, l. 4, *instead of* "Dehewbarth" *read* "Deheubarth."
- Page 315, l. 20, *after* "ability" *insert* "and."
- Page 316, note 2, l. 7, *instead of* "Cowan" *read* "Conan."
- Page 343, l. 27, *after* "Charles of Anjou" *insert* "the younger."
- Page 368, l. 29, *instead of* "on" *read* "one."
- Page 410, note 2, l. 17, *instead of* "Hemingford" *read* "Hemingburgh."
- Page 443, l. 29, *instead of* "three" *read* "five."
- Page 464, l. 9, *instead of* "from poverty" *read* "for poverty."
- Page 465, note 1, l. 7, *instead of* "on," *read* "or."

NOTE.—The book cited as Prynn's Records, iv. is Prynn's Brief Animadversions on and Explanatory Records to the fourth part of the Institutes of the Laws of England.

THE HISTORY OF ENGLAND DURING THE EARLY AND MIDDLE AGES.

CHAPTER I.

THE LOSS OF NORMANDY.

POSITION OF ENGLAND. JOHN'S TITLE AND ELECTION. OCCUPATION OF
NORMANDY AND PEACE WITH FRANCE. JOHN'S DIVORCE AND MAR-
RIAGE. REVOLT IN POITOU AND AQUITAINE. CAPTURE AND MURDER
OF ARTHUR. WAR WITH FRANCE. ENGLISH NOBLES ALIENATED.
SIEGE AND CAPTURE OF CASTLE GAILLARD. ROUEN REDUCED. LOSS
OF NORMANDY. CAUSES OF JOHN'S FAILURE.

THE death of Richard had taken place at a critical moment for Europe. Although the English king's generalship had not altogether retrieved the frontiers¹ which once bounded his father's possessions in France, the prestige of victory on the whole rested with him. His hatred of Philip had assumed a character of fanaticism; and the fortresses of Chateau Gaillard and of Boutavant, which he had built on the Seine, were avowedly fixed camps from which he meant to push on to the conquest of Paris. English gold had procured the election of Otho, Richard's nephew, as king of the

¹ By the last treaty, which, however, was never executed, Philip had agreed to give back all his conquests except Gisors. Even for this, how-

ever, he was to indemnify Richard by giving him the presentation to the archbishopric of Tours. Hoveden, Savile, p. 449.

Romans, and the Pope favoured the choice of a candidate from the pious Saxon line. The counts of Flanders, Blois, and Boulogne,¹ were in secret or open league with the English court against their tyrannical sovereign. Never had France been exposed to a more formidable coalition than that which threatened to unite the statesmanship of Innocent III. and the warlike energy of Richard against a sovereign whom none of his subjects loved cordially, and over whom sentence of the Church was even then impending for a monstrous separation from his queen. The shaft that struck the king down before Chaluz changed the face of Europe for all succeeding centuries. It gave England over to a weak prince, embarrassed by a disputed succession. The country, no longer under the iron grasp of its late ruler, was left to guide itself by its wants and impulses. The cost of Richard's ransom, of his wars, and of his diplomacy, had drained England of its treasure. Four years' famine had caused general misery. The nobles and fighting men had been decimated by the crusades, and by the endless French campaigns. Wise men had probably begun to count the cost of their country's foreign possessions, maintained only by incessant bloodshed, at the price of the sovereign's absence, and rule by deputy. The intrusion of foreign favourites into bishoprics and justiciarships was a patent and odious incident of foreign dominion. Possibly it may have been foreseen even then, that the greater country cannot be annexed to the less, and that London would cease to be a capital from the day our kings entered Paris as conquerors.

To modern notions of succession the claim of Arthur

¹ *Armoricus*, Bouquet, xvii. p. 74.

of Brittany, son of Geoffrey, Henry II.'s third son, appears indisputably better than any right, John, as fourth son, could put forward. But to Englishmen, and even to Normans in the twelfth century, though the matter might admit of dispute, John was on the whole the legitimate candidate. He had in his favour the nomination of the late king, the very title which William and Harold had respectively asserted in the eleventh century, and Stephen and Matilda not seventy years before. The right of an adult uncle to supersede a young nephew in his inheritance was a latent principle at least of the earliest feudal law, which regarded the possession of fiefs as a duty to be discharged by the most competent. In England the witan, and later the baronage, had perpetually claimed and exercised the right of nominating the king out of the royal family; Alfred, Edward the Elder, Edred, Edward the Confessor, William Rufus, and Henry I. were familiar instances of these constitutional titles. It may seem strange that Richard and his great nobles should have preferred a prince infamous for treachery, and but five years before an attainted rebel to the young Arthur. But many private and public reasons co-operated to give John the preference. Arthur's mother, Constance, had quarrelled with Richard, and above all with the dowager queen Eleanor. Arthur himself, though a boy only twelve years old, had been entertained at the court of France, and put forward in opposition to English interests. These were probably the paramount motives with Richard, when he named John on his death-bed. To his council the choice would seem to lie between an Anglo-Norman and a French candidate. Associated by his birth and education with Brittany and Paris, Arthur could scarcely fail to add

another to the list of English sovereigns, who, like Henry II. and Richard, preferred the continent to the country that gave them their title. Some of John's partisans in after years may have regretted their choice, when its issue seemed to be unprosperous. But it is rare in the many chronicles to find a line that impugns the validity of John's royal title, or that taxes him with any other injustice than that of withholding the earldoms of Anjou and Brittany from his nephew.¹

When the news of his brother's death reached him in Brittany John at once marched upon Chinon, (April 14, 1199,) and obtained possession of the royal treasure from its guardian, Robert de Turnham. In Normandy, which was English at heart, the clergy and nobles easily agreed to elect the earl. In Aquitaine and Poitou the influence of his mother prevailed over her hereditary vassals; and here too allegiance was sworn to John. But in Anjou, Touraine, and Maine, the claims of Arthur were preferred, and John found the city gates everywhere closed against him when he entered those provinces, except at Le Mans, where he was indeed

¹ Thus Rigordus says simply, "*successit Regi Ricardo frater ejus Joannes*," and calls Arthur "*Comes Britannici littoris*." Bouquet, xvii. p. 50. Guillelmus Armoricus calls Arthur "*Dux Britanniae minoris*," and John, "*Rex Angliae*," throughout. The English chroniclers use similar expressions. St. Hugh of Lincoln accepted John's claims at once. And the argument put forward for Arthur by his supporters was that he was entitled to all the lands which Geoffrey would have had by "the judgment and custom of those provinces," if he had survived his brother. The qualification seems to imply that they did

not consider his right absolute and universal. Most conclusive of all, perhaps, is the language of Louis's deputies to the Pope: "*Filii fratris non debent succedere ex quo tempore latae sententiae*," (and of course similarly the inheritance falling vacant any other way,) "*frater non vivebat*." The reason seems to be, "*quia non sunt in linea descendenti*." Paris, Hist. Major, p. 284. Only the *Annales de Margan* (p. 24) put forward the modern doctrine of Arthur's prior right, supporting it, however, by the argument that John had been attainted. But the *Annalist* wrote when John was in discredit.

admitted, but barely escaped by flight from a surprise at night. Furious at the general defection, and eager to deter others by a fearful example, he razed Le Mans to the ground, and imprisoned the chief citizens. His mother and Mercader, advancing from the south, devastated Anjou and burned Angers. But the march of a French army rescued the doomed provinces for the time: and John hastened to secure the crown of England. The primate, Hubert Fitz-Walter, and the chief justiciary, Geoffrey Fitz-Petre, two men of the highest character, had already been sent over to treat with the nobles. William, earl Marshal, who owed his fortunes by marriage with Strongbow's heiress to Henry II., and who supported his sons with unshaken loyalty, was among the most powerful of John's partisans, and William de Braose the most active.¹ The real difficulty lay in the great lords who had shared John's estates after his attain, and who now dreaded his revenge. Already every stronghold in the country had been garrisoned and provisioned for the event of war. But the antagonism of such men, as the earls of Huntingdon, Hertford, Chester, and Warwick, was too formidable to be provoked. In a council at Northampton they received a solemn pledge that their rights should be respected, and agreed in return to acknowledge John as king. The disbelief in Richard's death, which had prevailed for some weeks, had perhaps contributed to prevent them from forming any organized plans for determining the succession. It was weeks before Richard's name was disused in official acts. Even then by constitutional precedent, John was described merely as duke of Normandy and lord of England; the title of king being withheld till he was

¹ *Annales de Margan*, p. 12.

crowned.¹ On Ascension-day, (May 27, 1199,) the primate performed the ceremony. In his opening sermon he laid down the principles of succession; declared that the kingdom was elective, with only a preference to the best man in the royal family; and designated John as the fittest candidate, at once for his sagacity and courage and for his kingly birth. The courtly speech recommended the manly doctrine, and John and all present accepted the limitation. The new sovereign, by a judicious mixture of titles, defined himself soon afterwards, in the preamble to a law, as king by hereditary right, and by the unanimous assent and good will of the clergy and the people. Later in life the admission was quoted against him to good purpose.²

In spite of the urgent need for his presence in Normandy, John went as far as Northampton to receive the homage of the Scotch king. He waited some days, in vain, and then committed the custody of the north to William de Stuteville, and ordered the revenues of the see of York, its archbishop being then absent, to be laid out for the benefit of the see. Before long worse counsels prevailed, and he appropriated the income for his own wants.³ Supplies of another kind were rapidly pouring into the treasury. City after

¹ Hardy's *Rotuli Chartarum* in *Turr. Lond.*, vol. i. p. xvii. Hardy's *Introduction to the Close Rolls*, vol. i. p. 135. *De Gestis Giraldi Cambrensis*, lib. iii. c. 12.

² Archbishop Hubert's speech being reported only by Matthew Paris, *Hist. Major*, p. 197, has been called in question. But it seems confirmed by the preamble cited, *New Rymer*, vol. i. part i. pp. 75, 76, and by the language of Louis, p. 140, who in 1216 calls him king, "non

ratione successionis sed per electionem." It may be observed, too, that Henry IV. and Henry VII. put forward mixed titles of descent and popular election.

³ Geoffrey Plantagenet, the archbishop of York, had then been absent two years in Rome. He had sided with his half-brother in the dispute against William de Longchamp, and was still on friendly terms with him. *Hoveden*, *Savile*, p. 452.

city hastened to pay large sums for the renewal of its charters, and every petitioner who had anything to hope or to fear from the new sovereign approached the treasury with gold.¹ Presently John hurried to the coast, followed by the envoys of William of Scotland, who had come to denounce war if their master were not invested with the fiefs of Northumberland and Cumberland. William underrated the real though fitful energy of his suzerain's character, or counted unduly on the difficulties of his position on the Continent. The fact was that John was still an overmatch in everything but character for his enemies. The alliances formed by Richard were important and likely to be permanent, as neither Otho nor the count of Flanders could be reconciled to Philip. Indeed, Baldwin of Flanders hastened to transfer his homage to the king when he had crossed over into Normandy (June). The nobles and knights of the province flocked to the royal standard. Philip agreed to a truce till the Feast of the Assumption, and was well disposed to treat of peace, though he had made Arthur a knight, and accepted his homage for all the French provinces he could allege a title to.² But an interview between the two kings at Boutavant

¹ "The citizens of Lincoln give the king 300 marks for having the city of Lincoln to farm as they had it in the time of king Richard," &c. "The burgesses of Cambridge give the king 250 marks to have their town at the accustomed farm," &c. "Count Ferrars gives the king 2000 marks for Hecham, with its hundred, and park, and purtenances, &c., and resigns to the king all his claim for the other lands which belonged to William FEVERELL," &c. *Rotuli de Oblatis et Finibus*, pp. 1-5.

² Normandy, Brittany, Anjou, Poitou, Maine, and Tours; Philip apparently holding that John had forfeited his claim to Normandy by the neglect to perform homage. Of Aquitaine during Eleanor's life there could be no question. Otho was properly count of Poitou, but had devastated France, and was afterwards excluded from the peace of Goleton. Rigordus, Bouquet, xviii. p. 53; and Innocent. Epist., Bouquet, xix. p. 461.

led to no immediate result. Philip declared that John ought to have done homage for his French inheritance before he presumed to enter on it,¹ and in strict feudal law there can be little doubt the pretension was well founded. Nothing could be more anomalous than the spectacle of a tenant-in-chief appealing to his vassals for a title, and neglecting to apply for his lord's consent. But John had not sunk so far below the pretensions of his ancestors as to admit that the king of France had any right to settle the succession to the dukedom of Normandy, and the question remained to be decided by the sword. Circumstances combined for the present to force an amicable arrangement on the French king. His high-handed conduct in Brittany, where he had levelled the castles entrusted to him, alarmed the jealousy of Arthur's guardians, and the young prince for a time took refuge with his uncle, till a graver fear for his life drove him back to the French court. Still it had become evident that Arthur's partisans would not sacrifice their provincial liberties to support their favourite candidate; and Philip thought it wise to conclude a second armistice (October). Then again Philip was involved in a series of little feuds with the Pope. An article in his last treaty with Richard had been cancelled by Innocent III. as injurious to the Church; and the king had been ordered and forced by an interdict to give up the bishop elect of Cambrai, whom he had taken prisoner.² It was poor consolation that John was constrained in like manner to dismiss the bishop of Beauvais, and pay him a heavy sum for the expenses of his captivity. Most serious of all for Philip was the

¹ Wendover, vol. iii. pp. 141, 142.

² Innocent. Epist., Bouquet, xix. p. 361. Hoveden, Savile, p. 452.

question of his pretended divorce from his queen, Ingeborg. His old feeling of repulsion towards her—so strong and groundless that it was currently ascribed to witchcraft—was by this time heightened into bitter hatred, and intensified by his passionate attachment to his morganatic wife, Agnes de Méran. Innocent, strong in his cause, and supported by the public opinion of Europe, expostulated, threatened, and at last struck. In December, 1199, all France was laid under interdict. The violent king retaliated by expelling all the clergy who observed the interdict from their benefices; while he levied heavy fines on the more scrupulous knights, and on the towns.¹ But if he was still king, and supported even by a few among the bishops, his arm was paralyzed for offensive war. It became necessary to treat in earnest, and the favourable conditions which he obtained are high evidence of the respect his character inspired. From first to last he seems to have cowed his rival by steadily treating him as an inferior. John literally bribed and bought himself into substantial vassalage. By the treaty of Goleton, (May 18, 1200), the peace sworn to in 1196 was confirmed. But as there had been several infractions of it on the part of Richard, John agreed to make certain cessions of territory, including the city of Evreux and the district of Quillebeuf.² The fortresses of De Portes and De Landes were to be demolished; but there is no mention of Chateau Gaillard, which had been erected in direct infringement of treaty.³ Probably Norman

¹ Rigordus, Bouquet, xvii. p. 51.

² So Dom Brial translates Guitebo (Bouquet, xvii. p. 52, note b.) The village between Evreux and Le Neubourg is meant, not Quillebeuf at the mouth of the Seine, which

belonged to the abbey of Jumiéges, and was too valuable, from its position near the sea and Rouen, to be granted away to a foreign power, even by John.

³ "Andeliacum non poterit infor-

public spirit would not have brooked its dismantling. Several fiefs were to be given to Philip's son, Louis, as the dower of John's niece, Blanche of Castile, whom he was to marry; but these, if Louis died without heirs, were to revert to the English crown. Arthur was to be invested with his ancestral fief of Brittany, and the count of Angoulême, and the viscount of Limoges, were to be reconciled to John; while similar provisions stipulated that Philip should admit the counts of Flanders and Boulogne to do homage, and should not invade the rights of Otho over his county of Poitou. John, however, was to give no assistance to his nephew in the struggle in Germany. Insufficient as this peace was, John bought it at the price of twenty thousand marks. One result of it was soon seen. The counts of Flanders and Blois, despairing of effectual support from England against the French king, set out for the fourth Crusade, which ended in the conquest of Constantinople, and the election of Baldwin to be Emperor of the East.

John seemed now to be in possession of the peace for which so much had been sacrificed. It soon appeared that he had desired it as holiday-time for his court rather than as breathing-space for an exhausted people. His first care was to marry again. By a freak of the late earl of Gloucester, who could not bear to die without leaving an heir-male to the title and estates,¹

tiari" is the eighteenth article of the treaty of 1196. Rigordus, Bouquet, xvii. p. 45.

¹ In 1176, William, earl of Gloucester, and son of Robert the Consul, natural son of Henry I., agreed, at the request of Henry II., to make John his heir, on condition that the king should preserve the count-

ship of Gloucester in his family, and should pay £100 a-year to the counts of Evreux and Clare respectively, who had married his two elder daughters, Mabel and Amice. Diceto, Brompton, X Scriptores, cc. 594, 1116. In 1189, Richard allowed the marriage to take place. Hoveden, Savile, p. 385. John's lands were at once put under

John had been married twelve years before to his third cousin Hawisa, the earl's daughter and co-heiress. But no kindly or honourable sentiment towards the woman by whom his fortunes had been made, and with whom he had lived so long, restrained the king from now demanding a divorce on the plea of consanguinity. The archbishop of Bordeaux, one of the worst men of his time, and John's zealous partisan, readily pronounced a sentence of dissolution, and other prelates were found in Normandy and Poitou to co-operate.¹ As Hawisa did not appeal to Rome against it, and some years later married the earl of Essex, there is ground for hope that the divorce from John in some degree compensated the loss of a crown. The king at the time of his separation was not under the influence of any other attachment. He sent ambassadors to Lisbon to demand the hand of the princess of Portugal. But before their answer could be received, captivated by the beauty of Isabella, daughter of the count of Angoulême, he wooed and married her, though she was affianced to Hugh, count de la Marche. It is said that he was encouraged in this outrage upon public opinion by Philip.² The act was certainly disastrous to the king of England. He won only a worthless woman, whose influence contributed to keep him in a round of vicious pleasure, at a time when his dominions were being lost. He insulted the court of Portugal, and the general right feeling of

interdict by Baldwin, archbishop of Canterbury, for his marriage within the canonical degrees, but he appealed to the Papal legate, and the interdict was quashed. Diceto, c. 650.

¹ Hoveden specifies Hélie of Bordeaux, William of Poitou, and Henry of Xaintonges. Savile, p. 457. Diceto, c. 706, mentions the bishops

of Lisieux, Baieux, and Avranches, and says there were others. Innocent says the sentence was pronounced by the bishops of his land. Bouquet, vol. xix. p. 414.

² "Quam in transmarinis desponsaverat consilio Regis Philippi," Coggeshale, p. 91. Hoveden, Savile, p. 457.

Europe by his indecent haste. The injury done to his own vassal converted the count de la Marche into a bitter and legitimate enemy, who was warranted in waging war against his disloyal suzerain. It may seem strange that the Church did not interpose in a question of violated contract. Innocent, when reproached for allowing the divorce of John from Hawisa, answered justly that it had been pronounced by competent authority, and that no appeal had been lodged with the Curia.¹ It would have been intolerable if the Pope had interfered, unasked, in the private relations of princes. Probably, Hugh de la Marche did not seriously care to reclaim a woman who had freely given herself away, and who could only be recovered by constraint after some months' marriage. But the insult to his honour had to be avenged, and he exercised his feudal right of levying war against the king.

For a time it seemed as if John were too powerful to be shaken. In November, 1200, he received the homage of William the Lion at Lincoln. In the spring of the next year he travelled through the northern counties with his bride, conferring honours, confirming liberties, and giving judgment in disputed cases of right; while at the Easter festival they were crowned again at Canterbury, probably to place the queen's title beyond impeachment. During the succeeding summer he visited France. The country was still unquiet, and the English barons had refused aid till their own rights were secured them; but John's energy or diplomacy arranged every difficulty. William des Roches, hitherto Arthur's trustiest adherent, suddenly

¹ Innocent., lib. v. epist. 50. This disposes of Coggeshale's statement, that the divorce was "per mandatum domini Papæ." Bouquet, xviii. p. 91.

deserted his cause and surrendered the town of Le Mans to the English king. Philip had done his duty loyally by John, and refused all assistance to the insurgent barons under Hugh de la Marche.¹ John was now invited to Paris, and welcomed with ostentatious cordiality; the king's own seat assigned him; and a public ovation given him in the church of St. Denys. Even the county of Anjou was awarded him by solemn judgment of the peers.² All the articles of the late treaty had been carried out, and Arthur was pledged to quiet, though he preferred remaining at the court of France. In September his restless mother, Constance, died of leprosy,³ and John had one enemy the less. But he could not conciliate fortune. He had irritated the Cistercian order in England by attempting for the first time to levy a tax on them; and had alienated his most powerful ally, Innocent, by the pledge given not to assist Otho. He had ventured, perhaps justly, but rashly, to forbid the papal legates to try causes in England. He had now to deal with a revolt in Poitou and Aquitaine, which had certainly been provoked by his own misconduct, and in which the chief prelates and nobles of those parts were involved. He showed himself pitiless and unscrupulous. Hugh de la Marche and his followers were easily crushed, and then the work of retribution began. The church of the bishop of Poitiers was destroyed and his lands ravaged. In the south the archbishop of Bordeaux, John's favourite, was accused of letting loose armed bands of marauders upon the province; while the bishop of Limoges was

¹ "Guillelmus de Barris, ex parte Regis Francorum Turonum veniens, Pictavos insequitur." Chron. Turon., Anon., Bouquet, xviii. p. 294.

² Id., p. 275.

³ New Rymer, vol. i. part i. p. 85; Chron. Brit. Alt., Bouquet, xviii. p. 330.

driven from his see, his lands sequestered, and even the offerings of the altar seized by the king's emissaries.¹ All John's after-history proves that it was his settled policy to govern by mercenaries and intimidate his subjects by unsparing vengeance on rebellion. It was not to be expected that a prince like Philip would allow the opportunity of interference to escape. Setting aside all question of policy, and all questions of homage delayed, and stipulations evaded,² it was his duty as suzerain to decide controversies between his vassals; and when Hugh de la Marche, overmatched and hopeless of continuing the war alone, at last appealed to the supreme court at Paris, Philip summoned the English king to appear before him at Easter next (1202). John pleaded that as duke of Normandy he was entitled to meet the French king on the frontiers of their respective territories. He was answered that the king of France did not lose his rights over the count of Anjou because the count happened to be duke of Normandy.³ The reply seems perfectly just, and John might quite as relevantly have pleaded that he was king of England and owed no homage. Holding as he did by different tenures he might at any time be bound by the conditions of the least honourable. Yet it was impossible for him to accept the summons, and both sovereigns were forced to struggle through war to a new settlement. Meanwhile the Court of Peers declared that he had forfeited all his French fiefs.

Philip's plan was from the first definite and statesmanlike. If there was one part of John's continental

¹ Innocent., lib. v. epist. 68, 168; lib. vi. epist. 216.

² Armoricus says he delayed doing homage, appealing to the Court of

Peers, promised to pledge Boutavant and Tillery, and would not perform his promise, Bouquet, xviii. p. 75.

³ Coggeshale, Bouquet, xviii p. 95.

dominion to which the crown of France had no right, and where the natives were English in feeling, that province was Normandy. Precisely for these reasons, and because it lay between England and Paris, was it the key-stone of English power, and the one possession on which all depended, whether a Plantagenet or a Capet should be the greater king. Philip accordingly, having destroyed Boutavant and taken Gournay by cutting the dykes, and so sweeping away the wall, supplied Arthur with money and with a body-guard of two hundred knights, and dispatched him to wage war in Poitou, whilst he himself besieged Arques in Normandy. But Arthur, led away by the rash counsels of the Poitevin knights, advanced upon Mirebeau, where his grandmother Eleanor then was, without waiting for the Breton troops, which were said to be within a day's march. At first it seemed as if his bold stroke for a crown would be successful, for only one tower of the fortress remained to be taken. But John was roused to action by the incalculable danger and disgrace if his mother were made prisoner, and collected a large army, partly of mercenaries, partly of native knights, who espoused his cause on the promise that he would not kill his prisoners or imprison any of them north of the Loire, and that he would give his nephew his heritage.¹ The attack made suddenly and by night, (Aug. 1), was completely successful; and English chroniclers of our then inglorious annals tell with pride how Arthur, and his sister, Hugh de la Marche, Geoffrey of Lusignan, and two hundred less important barons and knights were taken prisoners. In fact the victory might have changed the fate of the war had John known how to profit by

¹ Philippidos, Bouquet, xvii. p. 191.

it; and it actually forced Philip to retreat hastily from Normandy, where the count of Boulogne had joined him, and where half the province was by this time overrun. But the king of England disgusted his followers by at once breaking his promise and taking his prisoners northward. The gentlemen of Maine, Tours, and Anjou, headed by William des Roches, were offended and left his standard.¹ They had wished to restore the normal state of feudal independence under a distant king, and did not desire John to be too powerful. Least of all can they have anticipated the tragic issue of their triumph. Twenty-two of the wretched knights are believed on probable grounds to have been starved to death in Corfe Castle.² Eleanor, the fair maid of Brittany, was kept in honourable but strict custody, that she might not marry and transmit the dangerous pretensions of her race. The manner of Arthur's death is uncertain. He was first confined at Falaise, and when his guardian William de Braose was ordered to give him up to be transferred to Rouen, he is said to have led him out before the nobles and called men to witness that not a hair of the boy's head had been harmed.³ Beyond, all is darkness. One pathetic story relates how John ordered that he should be emasculated

¹ Philippidos, Bouquet, xvii. p. 192; Coggeshale, Bouquet, xviii. p. 96. Accordingly, in Jan. 1203, we read that William des Roches, "acceptâ contra regem Angliæ guerra," burned Angers. Addenda Chron. Andegav., Bouquet, xviii. p. 325. Possibly Arthur's death, real or rumoured, may have decided these open hostilities.

² Annales de Margan, p. 26. Hardy's Introduction to Patent

Rolls, p. 10, note 2. Coggeshale says (Bouquet, xviii. p. 192), "that many of the prisoners who were dismissed on the promise not to serve against John broke their parole."

³ Philippidos, Bouquet, xvii. p. 192; Coggeshale, Bouquet, xviii. p. 96. Compare the invective of Matilda de Braose against John for murdering his nephew. Wendover, iii. p. 225.

and blinded, but that two of the three executioners slunk away for very shame on the way, while the new warden, Hubert de Burgh, proved incapable to execute his master's barbarous orders, and sheltered the young prince under a false report of his death; his clothes were given to lepers, and the church bells tolled for him as for the dead. Then, when the cry of public indignation rose high against the barbarous uncle, Hubert produced the young prince; and John, whose nobles feared reprisals, was not displeased at the disobedience.¹ But the king's penitence, it is said, was short-lived. He transferred his nephew to the care of Robert de Vipont; and, leaving the court secretly as if on a hunting-party, came at midnight to the gates of Arthur's prison, stabbed him with his own hand, and cast the body into the river some miles lower down.² One version adds that the murder was preceded by an angry interview, John demanding that the prince should renounce his claims, and Arthur resolutely refusing.³ In the absence of all official record, the fact of a murder seems the only point certain; and its best proof is that John himself never professed, when it might have done him service, that his nephew died naturally. Except in Brittany, where the people mourned the last representative of their native line, and where Arthur is still remembered, the crime does not seem to have been much regarded or abhorred. It was one of many acts which showed John to be a stupid and brutal man; but it had a certain colour of right, for Arthur was in rebellion, and was rather an

¹ Coggeshale, Bouquet, xviii. pp. 193, 194.
97, 98.

² Wendover, vol. iii. p. 170.

³ Philippidos, Bouquet, xvii. pp.

abuse of power than an outrage on all law. Innocent does not seem to have attached much importance to the event. But Philip saw the advantage to be derived from it, and vowed, when the first rumours were afloat, that he would never make peace unless Arthur were restored; and that, if he had been killed, Eleanor must be given up to him, with all the English dominions in France as her dower. Henceforth he answered all proposals of peace by insulting and impossible conditions of this sort.¹

In the spring of 1203, John was sovereign nowhere in France but in Guienne and Normandy. Guy of Thouars, the second husband of Constance, had presented his young daughter Alice to the Breton estates, and they had acknowledged her heir to the dukedom without prejudice to the rights of the captive Eleanor. Rebellion had the upper hand in Aquitaine, Poitou, and Anjou, and the king of France was preparing to invade Normandy. A fresh sentence of the peers declared John guilty of felony and treason in the murder of Arthur, a homager of the crown of France and near kinsman to the king, and adjudged him to forfeit all the lands which he held by homage, and even to suffer death.² Philip and the Bretons accordingly poured from opposite sides into Normandy. They met with no effectual opposition. John, it is said, passed his time in feasts and parties of pleasure, replying to those who warned him of the advance of the enemy that he would regain all their conquests in a single day. His

¹ Coggeshale, Bouquet, xviii. pp. 98, 99.

² Wendover, iii. p. 374. John was appealed "*per quendam militem strenuissimum parentem proximum ejus-*

dem Arturi." Hemingburgh, i. p. 242. It is remarkable that Innocent answered it by declaring that Arthur had justly been put to death for rebellion.

nobles, it is added, left him in disgust, obtaining furloughs for England, and never returning, or betrayed the castles committed to them to his rival. It is quite possible, though these statements are certainly over-coloured, that John was infatuated by his success at Mirabeau, and believed for a few weeks that a province like Normandy, which single-handed had once been an overmatch for France, could not be conquered when the armies of England defended it. His habitual riot must have seemed grossly out of place when his towns were burning. But it is impossible to believe that there are not other reasons for the loss of Normandy. John, as he showed afterwards, though wanting moral courage and high statesmanship, was no *roi fainéant*, and had much of the family ability, while his captains, Savari de Mauléon and Martin Algaïs, were fully competent to advise and serve him. The fact is that during the last two years he had alienated the English nobility by demanding fresh fines for the lands and honours, which he had covenanted at his election to leave untouched.¹ His favourite advisers were new men and foreigners, who enjoyed the places and rewards to which natives aspired. Barbarities like those at Dol, where he tortured the garrison (Sept. 1203), and his murders of Arthur, of the captive knights at Corfe, and of the hostages from Poitou,² had not only disgusted his adherents, but induced them to fear reprisals.

¹ Thus, in 1201, "perambulabat terram et homines regni redemit . . . quod per eos devastata erat foresta ejus." Hoveden, p. 465. The nobles accordingly refused to cross into France, "nisi ille reddiderit illis jura sua." Hoveden, p. 466. Fulke Fitz-Warine was driven into rebellion by his honour of Whittington

being granted away to another knight; the king having a grudge against Fulke. History of Fulke Fitz-Warine, pp. 66, 67; and Dugdale's Baronage, vol. i. p. 444.

² Trivet, p. 171. Cf. Rigordus, Bouquet, xvii. p. 59, about executions of French partisans at Rouen.

Lastly, the very nature of the English dominions in France—a chain of provinces stretching round the coast—made it impossible for any sovereign to resist a general insurrection effectually. The strength of the army was wasted in fortresses which were taken in detail before they could be relieved. The English king's only chance of success, as far as can be judged by events, would have been to concentrate all his troops before the rebellion had gathered strength, and stake the chances of the war on a great battle with Philip. As it was, the conviction that they were isolated in the midst of a hostile country, and were fighting with halters round their necks, for an attainted master who could demand no conditions for them, seems to have paralyzed the English commanders. Some were traitors or cowards; others fought well, but without hope or result.

The strategy of the Norman dukes, consummated by Richard, had guarded the duchy by a double chain of fortresses. Boutavant, Château Gaillard, Andelys, Portejoie, with their outworks, Radepont on the Andelle, and Rueil (Vaudreuil) near the mouth of the Eure, defended the line of the Seine from the frontiers to Rouen; while Tilliers, Conches, and Montfort followed the almost parallel course of the Rille. No invader could venture within or without this network of camps without serious risk of having his flank turned, so long as the attack was directed from Paris, and Maine, Anjou, and Brittany were in the English interest. The rebellion of these provinces allowed Philip to operate unconcernedly. Boutavant had been destroyed in the last year; Conches was reduced in the beginning of the present campaign: and Rueil was ingloriously surrendered by Robert Fitz-Walter and Sa-

her de Quincy, before a stone had been shaken down or a man hurt; even Philip, it is said, was indignant at the cowardice by which he profited, and imprisoned the commanders straitly, and held them to heavy ransom. Hugh de Gournai, who had been loaded by John with favours, admitted the French by night into the castle of Montfort. One of the two lines being thus reduced, Philip, joined by the count of Alençon, proceeded to invest the triple fortress of the island and town of Andelys, with Château Gaillard. These lay in a bend of the Seine, Château Gaillard, the easternmost, crowning a low steep hill surrounded by rocky plateaux of the same formation; the town of Andelys lying further west in a slope of lower ground between the hills and the river, and communicating with the castle on one side, and with an island that lay flush with it on the other. There were thus three separate fortresses to be reduced, each of which communicated with the other. But further, as the Seine at this point is broken by other islands besides the one fortified, and drains partially off in a small stream round a strip of marshy land on the southern and lower side, it was easy to throw bridges across the whole of it, and the island was thus connected with both banks. It was not, however, rocky or with any natural difficulties of access; its chief military advantage being that its small size enabled it to be covered with works and held by a slight force. Castle Gaillard, on the other hand, with its three walls and three deep fosses, mostly hewn out of the living rock, was the Gibraltar of the day.¹

¹ The history of the siege of Andelys and the Château Gaillard is taken from the accounts of Guillel-

mus Armoricus and Brito Armoricus. Bouquet, vol. xvii.

Philip at first encamped on the southern side of the river, and tried to reduce the island. But the garrison burned the bridge upon that side, preserving their communications with the north, and laughed at the arrows and stones which fell harmlessly on their parapets and covered passages. The French now constructed a bridge of barges, placed lengthwise to the stream and secured with stakes, and hollow towers through which the river could flow. This allowed the siege to be formed on the northern side, but it also divided the strength of the blockading army. John attempted to profit by the opportunity.¹ He was not strong enough to give battle in the field, and the hired troops whom he employed, Coterells and Routiers, as they were called, seem not to have been equal to ordinary men-at-arms in close action; they were probably worse equipped and less reliable. John accordingly resolved on a night attack by land and water. His soldiers, under William the marshal and Lupescaire, penetrated successfully to the southern camp and slew some two hundred of the camp followers. The alarm spread, and the bridge broke down at its nearer end under the crowd of fugitives who hurried to it. But William des Barres and his knights succeeded in restoring order, and in beating back the assailants. The boats destined to attack the bridge came up late, as is usual in combined operations, and were repulsed, after a gallant attack, with heavy loss, from the artillery on the bridge.

Gradually the toils closed around the besieged. They had barred the passage of the Seine with palisades; these were torn up or cut away by the French

¹ John was at Montfort, July 18, 26, 28, 29, 30. Itinerary of King John.

divers. A wooden stockade round the island was burned down. The artillery had shaken the walls; the parapets were so broken that it was unsafe to stand on them; and stones and arrows fell in fatal numbers within the walls. The garrison were compelled to surrender at discretion. This surrender left the town a certain and easy prey at no very distant date, so that many of the townsmen took shelter in Château Gaillard. Philip left an army of observation, and advanced to besiege Radepont. John had retaken Montfort while the siege of Andelys was in progress, and he now tried to effect a diversion by besieging Alençon (August 11-15). Philip did not choose to interrupt his works, but he hurried without soldiers, and by forced marches, across Normandy, put himself at the head of the local militia, who had assembled for exercise, and so alarmed the king of England that he broke up the siege ingloriously, and returned to Rouen. The twenty knights who officered the garrison of Radepont sustained a vigorous attack for three weeks, and then surrendered, having no hope of relief. John attempted to redeem his credit by a plundering excursion into Brittany.¹

The fate of the war now hung upon Castle Gaillard, and Philip's preparations show that he understood its importance. A fosse, two hundred feet broad, and protected by seven castles, was drawn completely round the beleaguered fort. The garrison was thus shut out

¹ *Armoricus*, p. 77. *Philippidos*, p. 189. *Itinerary of King John*. *Armoricus* says, p. 76, "Circa eadem tempora" (as the siege of Alençon), "J. R. cum immenso exercitu obsedit castrum . . . Bruerolos (Bressoles) sed Francis supervenientibus opere in-

fecto recessit." As the *Itinerary* gives no trace of this excursion into Perche it must have had some other commander than the king. It tends, however, to show that he was not as regardless of the fate of his dominions as has been assumed.

from all hope of supplies, and was too weak to attempt sallies upon the besiegers. The commander, Roger de Lacy, prepared early for the worst by expelling the useless mouths, mostly citizens of Andelys. But after two companies had successively been sent out, Philip ordered that no more should be allowed to pass the French lines. In the hope that these orders would not be adhered to, or in the resolution to save his fortress at any cost, Roger de Lacy presently made a fresh draught of incapables. The castle gates were closed upon four hundred and more,¹ mostly women and young children, and the French sentinels refused them passage. During three months the miserable victims of war lurked in the valleys and ditches around the castle, living upon water and the scanty winter grass. The camp dogs were trapped and eaten; a hen that flew among them was devoured, feathers and all, by the stronger; most horrible of all, it was said that a woman who gave birth to a child saw it taken from her and eaten. Exposed to the artillery of both sides, as well as to cold and hunger, their numbers gradually dwindled away. At last Philip, visiting the works in person, was assailed by the cries of the wretched survivors, and at once ordered them to be taken in and cared for. But the mercy came late, and almost all perished when food was again given them. Months went on, and every appliance of military art was exhausted to batter the walls or repel the attack. At last a point was fixed on where two strong walls met in a high tower. The French miners advanced under the shelter of a Roman tortoise to the ditch; descended one side and escalated the other with ladders, and then, working under their shields, hewed

¹ Brito Armoricus says twelve hundred. Bouquet, xvii. p. 203.

away the stones, putting in wooden props, lest the wall should fall upon themselves. When the work was sufficiently advanced they set fire to the props and hurried away. The tower crashed into the ditch; a storming party rushed in over the breach; and the first line was carried. In the second wall John had imprudently constructed a chapel jutting out from the line, and with a window towards the enemy. A certain Peter Bogis succeeded in climbing up to the window and drawing up his companions after him. The garrison seeing the chapel filled with the enemy, set fire to it and abandoned the second line. Peter Bogis and his comrades escaped alive by taking refuge in the castle crypt. There was now only one wall to be carried. Between the mines sunk under it, and three fatal discharges from a great petronel, which the soldiers called Chadabala, even this before long gaped with a deadly rent, and the enemy poured in (March 6). Roger de Lacy and his men tried to cut their way out, but were overpowered.¹ Thirty-six knights and a hundred and twenty men-at-arms were taken. Never had fortress in those days been more desperately defended than Château Gaillard was in its seven months' siege. Even John was touched by the loyal service of a noble who was neither courtier nor mercenary. He paid De Lacy's ransom of one thousand marks, and made him sheriff of York and Cumberland.²

Whatever his conduct may have been at the opening

¹ *Armoricus*, p. 79, says forty knights were taken; but *Rigordus*, p. 67, says four had been killed during the siege, and thirty-six were made prisoners.

² *Foss's Judges*, vol. ii. p. 88.

Patent Rolls, p. 48. It is noteworthy, however, that Saher de Quincy, whose ransom, with that of his companion, Philip had fixed at £5000, to show his disgust, was taken again into John's favour, as

of the war, John perceived his danger long before Château Gaillard was reduced, and took it keenly to heart. He tried to procure Innocent's intercession, and the Pope actually sent two legates, whose approach only induced Philip to hurry on operations at Andelys. The spring and summer of 1204 were spent in a royal progress through England to collect money and press on preparations for the coming campaign. Conciliatory measures were tried. Fulke Fitz-Warine, who had been outlawed for an old grudge, was pardoned, together with his companions, and the loyalty of English subjects was more than once confirmed with the lands of avowed rebels in Normandy.¹ The result was not satisfactory. In a plaintive letter to Innocent, praying him to excuse Geoffrey Fitz-Petre from a pilgrimage, John complains how few about him are to be trusted. The primate and the justiciary did their best to sustain the honour of the country, and laid heavy fines on the reluctant nobles, and taxed even the convents and parish churches. Once we find the king at Portsmouth apparently superintending the transport of troops (May, 1204).² But his leading ideas seem to have been to amass money by all means, and collect with it an army which should render him an undoubted overmatch for Philip in the field.³

the rolls attest. Close Rolls, p. 29. John even declared the surrender to be by his orders. July 6, p. 31. Cf. Patent Rolls, p. 30.

¹ Thus the lands of Hugh de Gournay "*proditoris nostri*" were granted away to John Marshall, nephew of the Earl. *Rotuli in Turr.*, p. 113. Cf. *Rotuli Norm.*, II. p. clxxiii. Compare the grant to William Briwer, p. 123, of the land of John Briwer, who appears in the list

of Angevine knights, during service to Philip. Duchesne, p. 1032.

² It is noteworthy that in a brief to Walter de Lacy and others, the justiciaries of Ireland, April 29, 1204, Patent Rolls, p. 41, John declares William de Burg free from all crown suits for the time, "*quod . . . ipsumque ducimus nobiscum in Normanniam.*"

³ Lingard says he actually collected an army, and that the nobles refused to serve. This, however,

Meanwhile, Normandy was being lost. The mercenaries in John's service had plundered the country they were paid to defend,¹ and the nobles were half-hearted or openly disaffected. Even the marshal, William de Humet, went over to the enemy.² Philip skilfully represented himself as only asserting his rights of lord paramount against a disloyal and cowardly vassal, and promised not to tamper with the rights of property.³ Lupescaire, one of the mercenaries who had served John so ill, surrendered Falaise after a week's siege, and entered Philip's service with all his troops. It was said in his excuse that the townsmen pressed him to save them from the horrors of war.⁴ The French army now swept almost unopposed through the province, and effected a junction at Caen with the Breton troops under Guy de Thouars, who had burned the fortress of Mont St. Michel. Caen and Bayeux came bloodlessly to terms. Only Rouen, Arques, and Verneuil displayed something of the old Norman spirit and formed a league against the invader. Even when the French appeared before the walls of Rouen, and took the barbican which commanded the bridge, the citizens only broke the bridge down, and continued to defend themselves.⁵ But the

seems to be a confusion with the events of 1205, more fully detailed by Coggeshale. For the account in the text, see Patent Rolls, p. 41. "B. Comes. Albemarl," &c; Itinerary of King John, April 6-12; the language of Trivet, p. 175, "cum non posset suis detrectantibus militiam exercitum congregare," the letters in New Rymer, vol. i. part 1, pp. 136, 137, and the story in Matthew of Westminster, A. 1204, of John's boast that his "sterlings" should reconquer Normandy.

¹ See the curious admonition to

Lupescaire not to plunder the lands of John de Preaux. Patent Rolls, p. 35.

² *Annales Waverleiensis*, p. 256.

³ Wendover, vol. iii. p. 174.

⁴ *Armoricus*, Bouquet, p. 79.

⁵ So says *Armoricus*, p. 80. In the treaty as given by Rigordus, p. 58, it is, however, stipulated that Philip shall have the barbican given to him, shall erect a fortress there, and that if he demands it, the citizens shall break down four arches of the bridge.

town was not properly provisioned; the burghers were compelled to treat, and Philip gave them honourable terms, partly on the inducement of a large sum of money, and partly as not caring to drive his future subjects to despair. A term was assigned within which they were to obtain English aid or to capitulate. Their envoys, it is said, found John playing at chess. He vouchsafed them no answer till the game was ended, and then told them they must do the best they could; he had no means of succouring them. Rouen, and its two allies, were accordingly reduced to admit the French. The humiliation was especially great for the ducal city. The pledge given in the treaty to respect its charter was only partially observed, and it was compelled to demolish part of its fortifications and erect a castle for a foreign garrison.

The fall of "headstrong Normandy" came so suddenly that it might well seem to argue singular baseness in the king who could not guard his fathers' heritage, and some shortcomings in the people who let their country be overrun. That John committed an irreparable fault in alienating his English baronage may be readily granted, and it is probable also that he was afraid to meet Philip in the field, and that "his spirit was rebuked before him," like Mark Antony's before Cæsar. But allowing all this, and putting out of view the grave reasons apart from hatred of John which made the English nobles indifferent to continental dominion, it is difficult to see how John with his actual resources could have maintained the struggle with very different results. Normandy was no longer the one part of France in which fighting-men were to be found; the French knights had been schooled to war in the Crusades, and Normandy was nothing more than a

province, like others near it, and with a scanty muster-roll of two thousand five hundred knights.¹ The sovereign whose capital lay within two days' march of the frontiers was necessarily stronger than the one who could only bring troops from beyond the sea. As it happened, the English looked on apathetically, while the French threw themselves impetuously into their king's quarrel, and warned Innocent III. himself, in an indignant rescript, not to meddle with temporal matters.² Philip's policy completed what his arms had begun. He confirmed the Norman cities generally in possession of their charters.³ He allowed every man to retain his land unmolested, and only twenty-three altogether neglected to appear in person or by proxy and do homage for their fiefs. Even John's personal adherents, like William de Braose, and the highest English officer, the constable of Normandy, consented to hold of a French suzerain.⁴ The archbishop of Rouen, a turbulent prelate, who had once excommunicated Richard, and the bishop of Lisieux, who had been high in John's confidence, were honourably reluctant to acknowledge a new master, and consulted Innocent whether they might do it lawfully. Innocent had learned a lesson from the spirited resistance of the French barons to his interference, and declined to answer the question as one that exceeded his competency, from his ignorance of the law and the facts.⁵ The prelates in time solved it for themselves, and recognized the rights of possession. John

¹ Duchesne, p. 1049.

² Martin, vol. iii. p. 578. The French bishops, whom Innocent had assembled in council at Meaux, are said to have appealed to the apostolical see in person against the command to interfere, offering

canonical purgation. But the whole story is of doubtful authority. Bouquet, xix. p. 470, note a.

³ Philippidos, Bouquet, xvii. p. 214.

⁴ Duchesne, pp. 1026, 1031.

⁵ Innocent, lib. viii. epist. 7.

was not hampered by the considerations of policy that restrained Philip. All the fiefs held in England by Normans, whether persons or corporations, were seized into the king's hand.¹

In a few cases, mostly of church property, the late owners had managed to dispose of some of the stock.² Probably in some instances family arrangements had been made, and brothers had espoused different interests, so as to maintain claims in each country on the property. Yet, after all, the amount of land held by Normans in England is singularly at variance with popular estimates of the connection of England with the duchy. In twelve counties for which the records are preserved, the whole rental only amounted to £868 1s. 11d., or less than the rental of any single county when Domesday Book was compiled.³ Much of this, and the part best cared for, was in the hand of Norman abbeys. Grants to courtiers of demesne lands, or of heiresses in marriage, will probably account for the greater portion of the remainder. Not a single noble family can be proved to have disappeared from the English baronage in consequence of these forfeitures.⁴ That the Norman conquest of England should have left such deep traces in

¹ Cf. Rot. de Fin., p. 226.

² E.g. Winterburn, Terra Canoniorum de Constancia. "Robertus de Costentino amovit post Pascham duo pondera et dimidium lanæ et tria pondera casei." Rotuli Normanniæ, p. 123.

³ The counties in question were Dorsetshire, Somersetshire, Devonshire, Essex, Kent, Surrey, Oxfordshire, Northamptonshire, Berkshire, Warwickshire, Leicestershire, Nottinghamshire. The rental of Middlesex, without London, was £731

15s. 10½d. in 1085.

⁴ This is the more remarkable as there are some apparent instances: Hugo Bussel, whose barony was granted to Roger de Lacy in 1205, and Roger de Burun, whose barony was transferred to William Briwere in April, 1204. But the first case was one of forfeiture for some default (Dugdale's Baronage, vol. i. p. 593), and in the case of the Buruns, the heir received land in exchange. Rot. Chart. in Turr. Lond., p. 123.

our language, literature, and character, although the conquerors were so soon and so completely naturalized, may seem unaccountable.¹ The explanation probably lies in the gradual expansion of foreign commerce and the settlement of Norman traders in our towns, in the great intermixture of nations in our wars, foreign and civil, and in the migratory habits of scholars, fostered by the political connection of France and England. We may point to India as a fair instance of a country where a few conquerors scattered among a much denser population, with far less proportionate interest in the soil, are gradually changing the whole character of the civilization.

Whilst the fate of English supremacy was being decided in Normandy, Aquitaine and Poitou were desolated by civil war. The aged queen mother, Eleanor, who had done so much for John and for Anglo-Norman interests, had died at Beaulieu, in Hampshire, early in the spring. Unsustained by her influence, the English commanders, Robert de Turnham and Savari de Mauléon, fought gallantly, but losingly, against William de Roches and Hugh le Brun at the head of a whole insurgent population. In July, Philip was able to march his victorious troops out of Normandy southwards. Nowhere was John better served than in these parts, yet the struggle only lasted a year. The gallant defence of Chinon by Hubert de Burgh, who held out a year against the French army, and when the walls were battered down attempted to cut his way through the invest-

¹ Forfeitures and escheats were so common in the century succeeding the conquest, that family after family lost the estates granted it by the Conqueror. Thus Raoul de Gael, Roger de Montgomeri, William Fitz-Osbert, the earl of Mortain, Odo of

Albemarle, William Malet, and Sweyn of Essex, had probably no heirs male owning property in England in John's time, while in other cases, as of the de Braose family, there had been wholesale confiscations.

ing force, shed a last lustre on the English arms. Gerard of Athy did good service in Loches, but was at last taken, while Rochelle actually maintained itself against the enemy, though the governor of the province, Robert of Turnham, was captured. Further south, the Gascons were English at heart, and the influence of the archbishop of Bordeaux was successfully exerted to preserve the country in its allegiance. For a moment it seemed as if John would support his subjects. He had amassed large treasure by taxes and less legitimate exactions during the last year (1204), and in the summer of 1205 he was able to assemble a large army and sailors from the whole coast of England at Portsmouth (June). The nobles of Poitou and Gascony had sent over cordial promises of support, and a party among the Normans was discontented with Philip's strong government. But when all was prepared, the ships provisioned and assigned to the different nobles, the primate and William the marshal suddenly demanded an audience of the king. They dilated on the dangers of the expedition. There was no port in France that would serve safely for head-quarters; the faith of the Poitevin nobles was doubtful; and the count of Boulogne would certainly invade England, if the whole military force of the kingdom left it. Under no circumstances could John oppose an equal force to his enemy. Not only his own person, but his royal line was in danger if any mischance befel him in a perilous campaign. John at first resisted the cowardly counsel. But his advisers fell at his knees and declared that they would hold him by force if he did not grant their request. A council was hastily summoned, and it was resolved that a part of the army should be sent under a few nobles, the remainder paying in money for their

exemption from military service. The knights and sailors, who had been summoned from every part of England, were furious at being counter-ordered, and cursed the primate and his party for their cowardly counsel. John himself rode sadly to Winchester, repented when it was too late, and came back to find his host broken up. He even put to sea for two days, as if he would cross over single-handed, as William Rufus had once done; but his courage cooled on the voyage, and he returned.¹ The earl of Salisbury conducted the minor expedition to Rochelle, but of course effected nothing. Why two men of undoubted loyalty and ability should have given advice so disastrous, and seemingly so dishonourable, must remain a mystery. The earl Marshal, who had just returned from France, may, however, have had good reasons for believing the restoration of English dominion impossible. Hubert Fitz-Walter may perhaps, as the king suspected, have been steadily opposed in his heart to any scheme for recovering the transmarine provinces.² In this case we must assume that he knew John's character to be more accessible to sudden impulse than rational conviction, and seconded his efforts to assemble an army with the idea of preventing his embarkation, at the last moment, by a *coup de théâtre*. As a statesman he probably judged rightly that John would fail disastrously in a campaign. But any failure on the field of battle would have been preferable to an unconsummated enterprise, which alienated loyal subjects and made future alliance with the disaffected in France impossible.

There was yet a last act in the tragi-comedy of these

¹ Coggeshale, Bouquet, xviii. pp. 102, 103.

"de regis Francorum nimia familiaritate suspectus." Wendover, iii.

² This must be the meaning of p. 183.

French wars. Encouraged by Guy de Thouars, who had found the powerful ally converted into a strong master, and began to tremble lest Brittany should be absorbed into France, John collected a fresh army and landed at Rochelle in the summer of 1206. His first efforts were successful. His troops stormed the strong fortress of Montauban or Bourg-sur-mer (August 1), which the chief nobles of the district garrisoned. John was present in person at the siege, and it shed an unwonted lustre upon his reign, that he had reduced in fifteen days a city which was famous in romance as having held out for seven years against Charlemagne.¹ The king pushed on to Angers, and, characteristically enough, burned it to the ground, while he wasted the whole territory of Anjou, Nantes, Rennes, and La Mée with fire and the sword. But he was recalled (September 22) by the news that Philip had entered Aquitaine at the head of a large army. At first John marched rapidly and directly, as if he desired only to give battle. But his courage failed him when the armies encamped opposite to one another, and he slunk away to Rochelle, under cover of negotiations which he had opened. The negotiations, however, continued, favoured by the intervention of papal mediators, and Philip easily consented

¹ "Burgum-super-mare qui anti-quitus dicebatur Mons Albani." Hemingburgh, ii. p. 47. John was at Bourg-sur-mer, June 29 and 30, when he probably reconnoitred it, and again from July 17 to August 10. (Mr. Hardy's Itinerary). The city was taken August 1. Wendover, iii. p. 187. The romance of the Four Sons of Aymon, from which the tradition of Charlemagne's siege (unknown to Turpin) is derived, places

Montauban on the Dordogne. The version translated by Hazlitt makes the siege last fifteen years (p. 174): that edited by Michelant predicts that it may go on for seven years (p. 145), but does not give the actual duration. The fact of the siege by John seems undoubted, and he is said to have written home, giving particulars of his success; but there is a strange silence on the subject among French and English chroniclers.

to grant an armistice of two years, by which John agreed to desert his ally, and only purchased a respite from his enemy's arms. The king of England and duke of Normandy, as he still styled himself, agreed by this treaty to abide by the *status quo*, which implied an abandonment for the time of all lands north of the Loire, and of large portions of Poitou and Aquitaine. The omen of his installation in Normandy, when he had let the ducal standard fall from his hands, was now literally fulfilled. Never perhaps in history have vast territories been jested away, idled away, almost thrown away, by a king so fond of power and with so much real capacity as John. Even in these, the most disastrous years of his life, it seemed, from time to time, as if he would make some great effort and retrieve all. His after-history showed that when he was not overmatched by some one tremendous antagonist, or by a whole people in arms, he could wield the appliances of despotism with more than ordinary sagacity and energy. But he had not the strength of a high character, or the self-reliance of a man superior to fate. The pleasant vices of his youth and manhood seem so completely to have overpowered him that he could only act fitfully, and as it were by flashes of his better self. Had he even been a mere debauchee he might have retained loyal counsellors and good captains to protract, if they could not avert, the doom of illegitimate power. It was John's peculiar infamy that he united the sullen ferocity of a savage and utter callousness to honour with the gluttony, the sloth, and the lust that are commonly the signs of a purely animal nature.

CHAPTER II.

THE INTERDICT.

JOHN'S RELATIONS WITH THE CHURCH. STOLEN ELECTION OF A PRIMATE BY THE MONKS OF CHRIST CHURCH. JOHN'S NOMINEE. STEPHEN LANGTON. QUARREL BETWEEN THE POPE AND THE KING. THE INTERDICT. JOHN TAKES HOSTAGES. WILLIAM DE BRAOSE. ALLIANCES AGAINST FRANCE. FAILURE OF THE INTERDICT. DISAFFECTION TO JOHN. JOHN'S SUBMISSION TO THE POPE. NAVAL VICTORY AT SWINEMÜNDE.

IN ordinary times John might have gone down to the grave with the reputation of a mere vulgar tyrant, and without the infamy of having almost ruined his people. It was his peculiar misfortune to be cast on days when the spirit of nationality and devotion to the Church were kindling every people of Europe to civil or foreign war, and were represented by such consummate leaders as Philip Augustus and Innocent III. Before Normandy was well lost John was hurrying to a fresh struggle with the whole power of the papacy, which had just reduced his rival in a single year to submission, and had divided the allegiance of Germany with its rightful emperor. Never, in fact, had the Church been stronger than now. The intense exaltation of spirit which the Crusades fostered turned exclusively to the benefit of the hierarchy; and the men who returned from Palestine, and the many thousands more who took the cross, but delayed indefinitely to go, were alike soldiers of the Holy See in sentiment.

Preachers everywhere traversed Europe, enlisting and raising money for the sacred war. One fanatic, abbot Eustace de Flay, made a progress in England, ascribing the failure of the Crusades to the general habits of Sunday trading and fairs; and commanding that in future even the Saturday after nones should be kept holy, and the commonest occupations, the baking of bread, and laundry work, be suspended. Convinced by the miracles that attended his course, the people changed their accustomed days of trade, and submitted, till the revival had worn itself out, to devote the whole of the Sunday to the sacred offices.¹ Never, perhaps, were more miracles wrought, more visions seen, or more monasteries founded, in any period of English history since the Confessor had died, than in the twenty and odd years between Richard I.'s accession and John's surrender of his crown to the pope. Yet there were some circumstances that might blind a king of England to the real character of the times. The principles Becket contended for, though nominally recognized by the crown, had never been thoroughly carried out in England or perhaps in Normandy. The formation of a large bureaucracy, judges itinerant, and commissioners of assize, had given the crown great power of bribing the abler

¹ Wendover, iii. pp. 151-154. In 1204, the earl of Clare is allowed to transfer his market at Rowell from Sunday to Monday (Rot. Chart. in Turr. Lond., p. 117). In 1207 he fines for having it on Sunday again, "as it used to be before it was removed by the abbot of Flay's preaching." Rot. de Oblatis et Finibus, p. 378. Compare Robert of Brunne's regretful observation: "Sum time hit was wont to be down, To ha-

lewe the Satyrday at the noun Namlich8in Ynglonde." *Handlyng Sinne*, p. 28. Cf. *Itin. Camb., Gir. C.*, lib. i. c. 6, for the exhortation of an English peasant to Henry II., "per totas ditioni vestre terras subditas ne mercatus dominicis diebus fiant." Hoveden says, (p. 458), that the abbot was once driven out of England by the bishops for preaching without a licence.

members of the clergy; and it had become a proverb, that there was no clerk who was not also a lawyer. Out of nineteen English prelates, ten during John's reign had been, or even were, law-officers of the crown. Add to this, that the nobles and higher clergy were quite as likely, as they had shown in Becket's case, to side with the crown as with the papacy, and that there was a strong current of anti-Roman, though hardly yet perhaps of anti-papal feeling, among all who came in contact with the curia; and it will be understood that an English monarch might well estimate his chances of success in a quarrel with Rome highly. In fact, the precedents of John's life were rich in defiance or evasion of church censures. He had married in spite of the primate;¹ he had wrested the government of England from a bishop authorized by the pope to excommunicate; he had driven the archbishop of Dublin into banishment, the pope's remonstrances notwithstanding;² and he had procured an unjust sentence of divorce from his wife by influence over his French bishops. It is scarcely wonderful if he ventured on more direct aggressions, and ravaged the lands of hostile prelates, seizing even the sacred offerings of the altar, or forbade papal commissioners to try causes in England.³ Innocent's letter of remonstrance mentions even a graver insult than these. In a fit of childish anger that some of his requests had been denied, John had forbidden any man in England to entertain the papal legate; and the order, though presently recalled, was a grave diplomatic outrage. Later on, (1206), he forbade a synod, which the pope had authorized to be held. Once he

¹ Diceto, c. 650.

² Innocent. Epist., lib. v. 160. Bouquet, xix. p. 424.

forbade (1205) the collection of Peter's pence by a commissioner whom the pope preferred to the English bishops. At another time he dissolved a synod which had met (1206) at St. Alban's to consult the same important question.¹ The pope, as guardian of orphans and widows, had been constrained to interpose his advocacy for the queen dowager Berengaria, whose dowry of Norman castles had been confiscated in reprisals for John's seizures. The interposition had been backed by the English bishops and had been unheeded. Yet for a time pope and king remained upon good terms. Innocent was content to overlook much in the hope of gaining the king of England's assistance for his nephew Otho, the papal candidate in Germany. He even condescended to gratify the king's taste for jewellery by the present of a ring with precious stones, whose mystical significance as types of the cardinal virtues he explained in a letter.² John on his side applied to the pope in his French difficulties, and actually profited by his intervention. Nor was John altogether a prince for churchmen to dislike. He employed them largely in his service; he made liberal benefactions to monasteries, or confirmed their charters freely; he visited Hugh of Lincoln on his death-bed, and cheered him with a promise to ratify bishops' bequests for the future; and he gave generous support out of his subjects' money to the new crusade, which the pope was advocating.³

¹ *Annal. de Waverleia*, p. 257. *Wilkins' Concilia*, vol. i. pp. 514, 515. He did not, however, prevent the papal commissioner from carrying off large sums ultimately. *Wendover*, iii. pp. 187, 188.

² This letter is put in *Rymer*, vol. i. part i. p. 139, under the year 1205; and the whole story is inconsistent

with the tone adopted by Innocent during his quarrel. *Matthew Paris*, the only authority for the later date, 1207, is not sufficient by himself.

³ He gave $\frac{1}{40}$ of all his revenues, escheats, and wards in England, and ordered most illegally that his lay subjects should do the same. *Hoveden*, p. 471.

Merits such as these might easily outweigh the vice of a petulant self-will in a sovereign whose obstinacy and capacity for mischief were probably under-rated. He was no doubt considered at Rome, to quote the quaint panegyric on an earlier English king, as a man who honoured God's law, but was fond of foreign vices.

The primate Hubert had died suddenly at Lenham, (July 13, 1205), a few days only after the memorable scene at Porchester, in which he had persuaded his master to a disastrous act of cowardice, and by which, it is said, he had irretrievably forfeited his confidence. But John's satisfaction at the death of his too powerful counsellor was ill-justified by the event. It had been for some time past a disputed question who was to elect to the primacy, as indeed there was some difficulty about the nomination to most English sees. The king, properly speaking, had no voice in the matter, and could not even refuse to invest with the temporalities which he was supposed to confer, but, practically his recommendation had the weight of command, and he had great legal power of annoying an obnoxious nominee. All depended, therefore, on whether the electing body would wait to receive his recommendation. But the constitution of the elective body was uncertain. In Anglo-Saxon times the election had been made by the witan, which then had an ecclesiastical side. Since the Conquest the practice seems to have been for royal commissioners, a few bishops, and the chapter of the cathedral, to elect concurrently.¹ But the chapter, who in this case were the

¹ Gervase, cc. 1348, 1382, 1423-5, 1468-74, 1583-4. In 1173 the prior of Christ Church held out against

the bishops who had instructions from the king, till they agreed to elect an ecclesiastic of the diocese.

prior and monks of Christ Church, claimed an ill-defined right to elect the primate as their peculiar head. Generally the popes supported the monks, on whose allegiance they could count; and the king, for the same reason, vindicated the claims of the bishops. The right of the prelates, as practical men and administrators, would perhaps seem to be the better grounded on reason, while the chapter derived a certain advantage from the constitutional precedents of corporations generally in England. On this occasion a party among the younger monks met by night, before the late primate was even buried, and elected Reginald their sub-prior in his place, chanting a muffled *Te Deum*, and enthroning him on the altar and in the chair of state. It would have been eminently unsafe to let their proceedings transpire. The primate elect was accordingly sent off hurriedly to Rome, under oath not to divulge the fact of his election till the pope's consent had been obtained. But vanity overpowered prudence and honour. As soon as he landed in Flanders, Reginald displayed his credentials from the convent, and the rumour of his indiscretion rolled back upon the guilty and alarmed brotherhood. It is pretty certain that the elder brethren had consented to the stolen election, as, in fact, special leave of absence must have been granted to Reginald and his companions.¹ But there was now no question of facing the king's anger, in the long interval before news from Rome could arrive. A deputation was sent to deprecate John's indignation, and it found him more placable than might have been feared. He

¹ Not only this, but by the constitutions of Christ Church, given it by Lanfranc, any monk going on a journey of more than a day had to

receive a public benediction, after divine service. *Lanfranci pro Ordine S. Benedicti*, cap. xiv.

probably expected to carry his plans through all the better for the momentary check. In fact, he easily persuaded the monks to elect John de Grey, bishop of Norwich, whose erudition and wit had recommended him to the royal intimacy,¹ and who was now one of the justiciaries. The new primate was solemnly enthroned, and the king, in testimony of his satisfaction, invested him at once with all the revenues of the see.

But this last error, as a chronicler says, was even worse than the first. It was necessary to send envoys to Rome to plead the cause of the king's nominee against the sub-prior, and the right of the chapter to elect, which John had incautiously conceded, against the claims of the suffragan bishops, who were roused to action and sent proctors to assert their privileges. John believed that it was only a question of bribery, and supplied his envoys with gold accordingly; but they soon found that a pope, who trampled on princes, was inaccessible to the basest form of corruption. The verdict when it came was undoubtedly intended as an assertion of the highest papal claims. Reginald's election was quashed as hurried and informal; and John de Grey's, as having been made before the throne had been declared vacant on authority. The monks present were ordered to proceed to a fresh election at Rome. John had anticipated this combination, and had arranged with the monks to renew their last choice. But the pope did not care to have his sentence eluded, and did not desire to add another precedent to the list of royal nominees who had been law-officers of the crown. He admonished the monks, under threat of excommunication, to regard their promise to the king

¹ Foss, vol. ii. p. 76.

as void, and elect Stephen Langton, whom he recommended. With one exception the reluctant monks complied.¹ There could be no question that the pope had chosen a ripe scholar, and a man of piety and ability. Stephen Langton had risen by simple merit to be chancellor of the university of Paris, and cardinal at Rome. The issue showed that he was even greater as a statesman and a patriot than as a clerk. Nevertheless, the equity of Innocent's proceedings is very questionable, even from the mediæval point of view. He may have been right in objecting to John de Grey, whose appointment would have been the pure act of the crown; but in forcing his own nominee, however excellent, upon a free elective body, however corrupt, he was certainly violating the privileges of a national Church.

As John's lay-commissioners positively refused their assent to the election, Innocent prepared from the first for extremities, and in his bull to the convent of Christ Church recalled the deeds of St. Thomas of Canterbury to their remembrance, and declared his intention of maintaining his appointment. John was just engaged, under pretext of an approaching campaign in Normandy, in enforcing a tax of one-thirteenth upon all lands and chattels, which had been unanimously refused by the clergy in two assemblies. Geoffrey of York actually went into exile sooner than pay it, and excommunicated the royal collectors; the rest of the clergy murmured and submitted.² The king's anger now turned against

¹ Wendover (iii. p. 213) gives his name *Magister Helias de Branbelfeld*. Innocent, however, says in his bull, "*licet in principio discordaverint novissime tamen . . . unanimiter*

convenerunt." Wilkins, i. p. 515.

² Wendover, iii. pp. 209, 210. *Annales de Waverleia*, pp. 258, 259. New Rymer, vol. i. part i. p. 96. The accounts seem a little contradictory;

the monks of Christ Church. Their first election, he said, had been against the rights of his crown; the second, a dishonest trick to evade his anger; they had taken his money to go to Rome, and had there elected an alien and enemy. Two royal commissioners, Fulk of Canterbury and Henry of Cornhill, were sent to expel the monks from their convent. The trembling brothers, forgetting the splendid precedent of Becket, which the pope had so lately recalled, departed at the first order, without waiting to have violent hands laid on them, and fled to Flanders without even the aureola of confessorship. Their convent was given up to their rivals of St. Augustine's, and the stock of their estates and of the see-lands was carried off; the estates themselves were farmed to Flemish merchants.¹ (July 14). Meanwhile John had commenced an angry correspondence with Innocent, dwelling on the wealth which Rome derived from England, and threatening to forbid all pilgrimages, and stop all supplies, if the election of Stephen Langton were not annulled. Innocent was inaccessible to the vulgar love of money, and, in fact, would be little affected by an order which chiefly concerned the interests of his courtiers. He answered (May 26), in a style of imperious courtesy, that his own alliance was as well worth keeping to England as

but, apparently, John at first wished to levy the tax on their benefices; they objected successfully to this as unprecedented and too severe; and he then substituted a tax on their realty and personalty. Rot. Litt. Patent., p. 72.

¹ A few of the monks took the opportunity of deserting the brotherhood. Hoveden, contin. Bouquet, xviii. p. 165 The statement about

the Brabant merchants is in Hemingburgh, i. p. 237, and is at variance with Wendover, iii. p. 215, and the Annalist of Waverley, p. 259, who agree that the lands were left untilld. Possibly, however, this may merely have been, for a time, or the expression may only mean unstocked, which would make a great difference in the value at which they were leased.

England's to him. He had consulted John's dignity by sending envoys who had been detained at Dover, and he was not prepared to make any further concessions. The choice of Stephen Langton was excellent, and the right of the Holy See to appoint indisputable. Let John beware how he opposed God and the Church. Meanwhile, before despatching his letter, Innocent had already consecrated his nominee. (May 25). He soon learned that John was determined to resist, and the rest of the year was spent in preparing for battle. Now the pope exhorted the English barons not to let their sovereign reject the counsel of piety; now it was Stephen Langton who admonished the faithful in England to avert and to expect the terrible calamity of the last church censures upon their king. Once the bishops of London, Ely, and Worcester, who had been selected as papal commissioners, partly perhaps because they had never been royal *employés*, were deputed to remonstrate in person with John. The king answered, with curses on the pope and cardinals, that, if they dared place his kingdom under an interdict, he would banish all the clergy and put out the eyes and cut off the nose of every Roman he could seize. He was more temperate, however, in writing, and even promised, in a letter after Becket's old fashion, that he would obey the pope, "saving the royal dignity and franchises."¹

In Lent of the next year (1208) the storm burst. The three prelates published the interdict and fled the kingdom, followed by their brothers of Bath and of Hereford. By this the celebration of mass—the great perpetual miracle of the Church and witness to Christ's incarnation—was absolutely suspended. The host, if

¹ Rot. Litt. Patent., p. 78. "Salvis jure nostro et libertatibus nostris."

it could be procured, might be administered to the dying, but a fresh one might not be consecrated; in such cases the prayer of faith would be sufficient. Baptism and confession must take place privately, and nobody might be laid in consecrated ground. The minor services of the Church, the hours and reading the gospel, were to be performed by the priest in solitude. Only on Sundays he might go out into the churchyard and proclaim the mournful list of unobserved fasts and festivals, sprinkle the people with holy water, distribute the consecrated bread, and preach. On Passion day he might bring out the crucifix to be adored.¹ At first, different religious bodies, such as the Templars and the Cistercians, evaded full performance of the interdict under plea of their peculiar privileges. But gradually the strong will of the pope triumphed over all opposition. England lay not indeed under a curse, for its people were innocent, but under a sentence of almost total exclusion from visible communion with God, all form formless, all order orderless, the living debarred their merry-making of processions and mysteries, the dead cast like dogs into the nearest ditch, the voice of prayer and praise hushed, the church-bells silent, the pageantry of a joyous ceremonial exchanged for mourning, the stillness and sadness around bearing daily and awful witness against the king's sin. But the king had the spirit of his father, and acted vigorously. The estates of all who observed the interdict were confiscated, and the concubines of the clergy, a numerous class, were held to heavy ransom. It was, in fact, a declaration of war against men who acted as the sub-

¹ The best statement of these matters is to be found in Innocent's explanatory bull. Wilkins, i. p. 526.

jects of an alien power. In the same spirit there was large licence for all who had a grudge against the clergy if they handled them roughly, or robbed them on the king's highway. When a Welshman who had murdered a priest was once brought before John for punishment, the king observed, with grim humour, "He hath killed my enemy, loose him and let him go." But it was not safe to presume on this indulgence. John in his serious moments could not contemplate letting murder loose upon the land. The bishops who chose to remain in their monasteries were unmolested, even though they observed the inderdict. The clergy and monks were allowed "a reasonable support" out of their confiscated revenues: and a proclamation announced that whoever insulted them by word or deed should be hanged on the nearest oak. When Robert Fitz-Walter besieged the prior and monks of Binham on a private quarrel, the king, who happened to love the noble less than the priest, asked with an oath whether such things had ever been heard of in time of peace among Christians, and vindicated the majesty of law at the head of an army.¹ Half the complaints of the chroniclers probably arise from the fact, which one of them incidentally divulges, that all clerical pleas of exemption from lay jurisdiction were now sternly annulled, and the clergy visited with the axe and gallows like common men for their misdeeds.²

But as John well knew that the graver sentence of excommunication, involving deposition from his crown, would sooner or later follow that of interdict on the realm, he resolved to secure himself against the nobles, whose fidelity he suspected, by demanding hostages.

¹ *Gesta Abb. Mon. S. Albani*, pp. 226, 227,

² *Chron. Petroburg.*, A.D. 1209.

Cf. *Annales Burton*, p. 217, and *Rot. Litt. Pat.*, 99, b, for delivery of some prisoners at Pandulph's demand.

There were so few great barons, that, when deduction was made of royal favourites and safe men, the remainder might easily be dealt with, and their best chance of effectual resistance was when all were assembled in council or in camp. Most of them accordingly complied with the king's orders, which were backed by troops, and gave their sons or nephews into the messengers' hands. But when the wife of William de Braose, Matilda de Haye, heard the royal message, she answered haughtily, that she would never entrust her children to the king who had murdered his nephew. William de Braose himself reproved his wife for her rash words, but evaded compliance with the demand for hostages; saying, that he was ready, if he had offended the king in anything, to answer it before his peers. The womanly taunt was reported, and John, startled and furious, resolved on exacting satisfaction. In fact, the matter could not safely be overlooked. William de Braose, though he had not risen to be an earl, was descended from one of the Conqueror's most powerful lords; his mother had been co-heiress to the third earl of Hereford; his aunt, wife to the fourth; he had shared the Totness inheritance; the earl of Derby was his nephew: Adam de Port, his brother-in-law; his son had married the daughter of the earl De Clare; and his two daughters were married into the Lacy and Mortimer families. A devout man in the estimation of monks, he was bloody and violent beyond most soldiers of the day; as a young man he had treacherously murdered several hundred Welsh; as an older man he had driven away the royal officers, vowing that neither king, nor justiciary, nor sheriff should meddle with his liberties.¹ His name is frequent

¹ Wendover, ii. p. 384. *Rotuli Curie Regis*, vol. i. p. 426.

in the law-courts for lifting cattle or seizing his neighbours' lands.¹ His best title with posterity, if it be his indeed, is that he had apparently declined to act as John's agent in the murder of Arthur. Nevertheless, he had for several years stood high in the royal favour. He had been the zealous promoter of John's election to the crown, and seems to have served him faithfully and well through his Norman wars. He had been rewarded accordingly with large estates in Ireland, the escheated property of his uncle and cousin, and with the custody of several castles in Wales. During the last few months, however, his favour seems to have declined. The custody of two castles in Wales had been taken from him and committed to Fawkes de Breauté, a royal leader of mercenaries. De Braose was still in arrears for almost all the fine due for his Irish property, and he cleared all the stock off his lands when the time came for the exchequer to distrain. He was suspected of having connived at the capture of Limerick, which had been committed to his custody, and surprised by Geoffrey de Marsh who was then in rebellion.² Giles de Braose, a brother, was among the bishops who had gone into banishment. Under these irritating circumstances, John marched to Hereford, and forced his refractory vassal to give the hostages demanded, and surrender his three castles. The conditions cannot be called extreme. Probably the hostages escaped, for in the summer we find William de Braose at the head of a small army

¹ E. g. William de Furch complains that William de Braose has deprived him of half a knight's fee at Kingston wrongfully. Matthew of Hereford applies to have his church quietly against William de Braose.

Oliver Tracy complains that William de Braose has carried off his cattle. *Rotuli de Oblatis et Fioribus*, pp. 77, 385. *Rotuli Curie Regis*, vol. ii. p. 179.

² *Annales Ecc. Wig., Anglia Sacra*, vol. i. p. 480.

attempting unsuccessfully to recover his castles, and burning half the town of Leominster by way of reprisals on the crown property. The royal troops were speedily put in motion, and De Braose fled with his family to Ireland. A rebel, more or less, might seem of little moment in a country whose chronic condition was feudal anarchy, and De Braose's powerful friends, the earl Marshal and the De Lacys, were accordingly able to shelter him for a year, the more so as John was occupied on the Scotch borders. But in the spring of 1210 the king set out for Ireland, De Braose in vain offering 40,000 marks for a peace, and receiving the contemptuous answer that the king would prefer to treat with the real principal, his wife, in Ireland.¹ It soon appeared that John had not over-estimated his power. His army swept through Ireland, reducing the castles of the revolted lords from Waterford to Carrickfergus. The English pale was divided into counties with sheriffs to administer English law, and with John de Grey, the unlucky favourite, for viceroy. Matilda de Braose attempted to fly into Scotland. Unhappily, she was taken on the way with one of her daughters and with her eldest son William, and his wife and two sons. They were sent first to Bristol, where the king, on his return in September, allowed William de Braose to have an interview with his wife. It was agreed that he should pay 40,000 marks for their ransom, and he was sent about England with an exchequer officer to collect the first instalment among his friends. Probably he found the attempt hopeless, as indeed the sum was enormous,

¹ "Et nos ei respondimus quod bene novimus quod non erat omnino in potestate suâ sed magis in potes-

tate uxoris suæ quæ fuit in Hiberniâ." New Rymer, vol. i. part i. p. 107.

for he fled the country before the term for payment arrived. He was cried through every county of England, and outlawed. His son, then captive in Windsor, was forthwith starved to death by the king's orders,¹ and a gloomy suspicion prevailed that the countess and her grand-children had shared the same fate. The wretched baron died soon afterwards in France, where his turbulent friends, the De Lacys, were earning their bread as garden labourers. His second son, Giles de Braose, returned as bishop of Hereford when the interdiction was removed, and was presently admitted to compound for his share of his father's estates. Possibly, by this time the two sons of William the younger, who had been alive in 1214, and were then kept as hostages in France, were dead. Anyhow, when the barons' war had begun, and allies were valuable, Reginald, the third brother, was admitted to fine for his portion of the inheritance on the same terms as his brother, and appears henceforth as the representative of the line. His marriage to a daughter of William Briwer had doubtless promoted his restoration. Almost the last act of John's life was to grant Margaret de Lacy a piece of land for a religious house, in which the souls of William and Matilda de Braose and of their murdered son were to be commemorated.²

¹ It is noticeable that John in the document he published in 1212, setting forth his quarrel with De Braose, steadily puts forth his money claims against him as the principal cause, and enumerates, with ludicrous and sordid precision, the 24 marks, 24 besants, and 15 ounces of gold, which were all De Braose's family could muster when the first term of payment came. Matilda de Haye, as

he calls her, is elsewhere called Matilda de St. Waleri. Giraldus Cambrensis speaks of her as "*mulier mulierum perpaucarum*." *Symbolum Electorum*, p. 208.

² The common story that Matilda de Braose and William the younger's two sons, Philip and Walter, were starved also, will not bear examination. In July, 1214, the king orders the seneschal of Engos-

There were others who thought, like William de Braose, that a time of papal interdict was a safe time for defying the crown of England, and who were roughly disenchanted. The king of Scotland had meditated marrying one of his daughters to the earl of Boulogne, then an enemy of the realm, and declined, on the plea of ill-health, to appear before his suzerain's court. John marched rapidly northwards, and William was glad to buy peace by the promise of 15,000 marks, and by giving up both his daughters for John to marry (1209). They actually became the wives of two loyal Englishmen, the earl Marshal and Hubert de Burgh. Three years later the heir apparent, Alexander, was similarly given up to be married, and father and son pledged themselves to accept John's successor. Llewellyn of Wales was reduced to submission at the fort of Snowdon, and only obtained tolerable terms by the intercession of his wife Jane, John's natural daughter, and at the price of numerous hostages. The king was even able to threaten his enemies on the Continent. Savari de Mauléon waged a border war in the south of France, and, fortunately for the interests of humanity, was defeated decisively (1208). English soldiers were

lesme to receive Philip and Walter, the sons of William de Braose, from the mayor of St. Jean d'Angeli. *Rot. Litt. Claus.*, p. 164. It is scarcely likely that they would be starved six years after the first quarrel, at a time when hostages were specially valuable, and when the king was weaker than he had been, or that they would be transferred for that purpose from a meaner to a higher officer. Again, such an act in 1214 would go far to preclude reconciliation with the family in

1216. Lastly, in 1220, Pandulph, then virtual regent of England, speaks of a suit as pending between Reginald de Braose and his mother Matilda. *Royal Letters*, vol. i. p. 136. It need scarcely be said that Margaret de Lacy's foundation (*Rot. Litt. Pat.*, p. 199) might perfectly well be intended to include a living person. The Continuator of Hoveden says that Giles de Braose fined in 9000 marks for his restoration. *Bouquet*, vol. xviii. p. 177.

thrown into the castle of Guarplic, in Brittany, and ravaged the adjacent territory¹ (1209). Above all, John aimed at renewing the old European league against France which he had found existing at his accession. He drew closer to Otho, in proportion as the emperor's relations with the pope were uncertain or hostile, and in the spring of 1212, England was in active league with Germany and Flanders. In France itself the count of Boulogne, whom a contemporary describes as "a man of many praiseworthy qualities," but "blood-thirsty, sacrilegious, a robber of widows and orphans, and an adulterer," in fact, a Christian after John's own heart, was in open feud with Philip, who had seized his fortresses, and transferred his allegiance to the king of England (1212). It is even said that John sent a secret embassy to the Emir al Moumenim, who was then threatening Spain, and offered to turn Mussulman, and hold England of him as a fief, as the price of his alliance. But the emir suspected that so dishonourable an offer must be made in mere desperation, inquired privately into John's character, and ended by rejecting the whole proposal contemptuously.² The count of Toulouse, another open enemy of the Church, proved more practicable, and concluded a treaty of alliance.

¹ *Armoricus*, Bouquet, xvii. p. 82.

² Matthew Paris professes to have heard this story from Robert of London, one of the three envoys who was afterwards royal commissioner at St. Alban's, to administer it during the interdict. The embassy, as Dr. Lingard observes, must have been sent before July, 1212, when the emir sustained a crushing defeat. In the absence of almost all official documents for the years 1210, 1211, 1212, the truth of the story cannot be tested, but Thomas of Erdington,

one of the envoys named, was a likely person to be employed. He had been sent to Rome in 1207, and in the spring of 1210, (*Rotuli de Litterate*, pp. 151, 152), and was again sent in November, 1212, when, by arrangement with the king, he and two others remained behind, so that their companions could do nothing. Matthew Paris, *Hist. Major*, A. 1213. *Vitæ Abb. S. Alb.*, p. 109. *Rot. Litt. Patent.*, p. 69. *Rot. Litt. Claus.*, p. 126. *Ann. Mon. Burton*, p. 218.

Meanwhile, the pope had not been idle. Some two years after the sentence of interdict had been promulgated, he excommunicated the king of England by name. But the coasts were watched so that no papal commissioner might enter; the bishops still resident in England, at most only seven in number, declined to publish the sentence; and courtly theologians were found to argue that until published it was of no effect. When John held his Christmas at Windsor, the English barons made a point of being present and communicating with him, lest they should alarm his vindictive suspicions of disaffection. Nevertheless, it was matter of common talk in the streets, and wherever men met, that the king was under church ban. One officer of the exchequer, a churchman and archdeacon of Norwich, was actually rash enough to absent himself without leave from the service of his excommunicate master. He was quickly taken into custody and partly starved, partly crushed to death under a heavy mantle of lead, devised apparently as a legal subterfuge that the canons forbidding a clerk's blood to be shed might not be violated. The one half-hearted martyr stands out in strange prominence from the ranks of his more compliant brethren, who were at least careful to propitiate the king if they would not rebel against the pope.¹ Indeed, it seems marvellous that these years of church censure were precisely those during which John appeared to retrieve his ruined authority. The statement

¹ Trivet, indeed, takes away almost all the religious colouring of his death by a statement that he was acting in concert with Robert Fitz-Walter and Stephen Ridel, "*capitanei factionis contra regem*." *Annales*, p. 185. Cf. Coggeshale,

Bouquet, xviii. p. 105. Paris tells the story twice, once of 1210, and once of 1213. *Hist. Major*, pp. 228, 233. But the *Annalist of Dunstaple*, (p. 34), who appears to have local knowledge on the point, fixes the date at 1210.

of an old chronicler, that almost all the laity turned away from the observance of Christianity,¹ is probably a highly coloured version of the fact that the upper classes were indifferent to the sentences passed against kingdom and king. As Innocent bitterly told the barons afterwards, they were for John as long as the Church was against him.² Several reasons, besides fear of a man whose dormant ability had been roused, and who had troops under him, will account for this. The first year of the interdict was one of unusual plenty in England, which came the more gratefully after years of scarcity. A season of comparative peace was always popular. The heavy fines levied on the clergy, and some irregular exactions from the Jews, probably enabled John to abstain from much extraordinary taxation.³ The nation, although devout and prodigal of money for religious purposes, had an instinct of aversion to the foreign capital of the Church, and might with some reason regard Stephen Langton as an alien by training forced upon the country by an Italian. But, above all, the most solemn sentence of the Church had been so recklessly abused by the Church's ministers that it had lost much of the terrors which a sentence of exclusion from Christ's fold ought to have carried to the mind of every believer. Every county, perhaps every parish, had its excommunicates. Here it was an archdeacon going out with bell, book, and candle, against an encroaching bishop; there an abbot excommunicating a township for a scuffle with his servants;⁴ now a primate avenging an injury

¹ *Annales Ecc. Wig., Anglia Sacra*, vol. i. p. 480.

² *Wendover*, iii. p. 336.

³ In 1211, however, there was a fine of two marks the fee, on all

who had not attended the Welsh expedition, *Wendover*, iii. p. 236.

⁴ *Gir. Cam. de Rebus a se gestis*, lib. i. c. 6. *Chron. Joc. de Brakelonde*, p. 68.

to his horse's tail. At John's own court every member of his late brother's council of regency, and every man opposing William Longchamp, had been excommunicated with the pope's sanction; his new ally, the count of Boulogne, was almost always in that state; the great earl Marshal lived many years, and died finally with the curse of a rancorous prelate clinging to him; and Robert Fitz-Walter, later on constable of the army of God against John, started in the war in which he defied Innocent, under sentence from the abbot of St. Alban's, whom he had besieged.¹ Probably no man wished or intended to die, denied the host and supreme unction. But a man may sin consciously and continuously under temptation, while he yet retains an unquestioning belief in religion. It is scarcely wonderful if the Norman barons found it convenient to incur church censures occasionally, and postpone reconciliation to their death-beds, or if they were slow to quarrel with their king, because he acted in his public relations as most of them found it convenient to do in private life; as half Germany under the orthodox Otho, and a great province of France under the more doubtful count of Toulouse were acting. It is noteworthy that royal commissioners were sent at the beginning of the quarrel to explain the matters in dispute to the different counties, and to canvass public opinion for the crown.² Even after years of suspended

¹ William Longchamp's excommunication, coupled with an attempt to put the whole land under interdict, fell utterly dead, in part, no doubt, from its very universality. Hoveden, p. 412. Cf. *Armoricus*, Bouquet, xvii. p. 86, Paris, *Hist. Maj.*, A. 1245, p. 687, *Vitæ Abb. S. Alb.*, pp. 106, 107, and the

story in Thorne how the sheriff of Kent and his officers were excommunicated by the primate and the pope for asserting the king's right of patronage to Faversham church by forcible entry. An *Index Excommunicatorum* would be very like a peerage.

² *Rot. Litt. Pat.*, p. 80.

worship the religious sentiment of the people, though it had never been stronger, would not have troubled John's repose, if his government had been tolerable.

John's passions and baseness were the real avenging furies of the Church. His illegal taxes, his rigid enforcement of the forest laws, the constant preference given to foreigners over natives, the demand of hostages from the nobles, the incessant taking of castles into his own hand, were enough to irritate a more long-suffering people than the English. The murder of the younger William de Braose, and the severities against the family, provoked so much horror that the king thought it necessary to explain his grievances against them in a state document, which dwells with vulgar emphasis on their debts to the crown, and omits all mention of the death in prison. But, above all, John indulged in the one intolerable licence against which even the most degraded societies have rebelled. He was sated with his young queen, who revenged herself by criminal intrigues for her husband's indifference;¹ and he made his court a place where it was unsafe for any modest woman to appear.² The husbands and fathers of his victims were often doomed to hear their dishonour published with a brutal jest from the king's own lips. An opportunity for revenge now offered itself. The pope, acting on the counsels of Stephen Langton, had declared the king of England deprived of his crown, and proclaimed a crusade against him, with Philip Augustus for its general. A commissioner, the deacon Pandulph, had obtained entrance (August, 1211) into England as a

¹ Hardy's Introduction to the Patent Rolls, pp. x. xi.

² Hemingburgh, vol. i. pp. 247, 249. Earl Ranulph of Chester, him-

self a former sufferer, is said to have protested in curia against the king's licence. Dugdale's Baronage, i. p. 42.

commissioner, to treat of terms, and had the courage to declare a provisional sentence of deposition to John himself in council at Northampton.¹ "We call God to witness," said the resolute Italian, "that we have come with no other thought than to die for the Church, and expect that wage of thee." The king with grotesque barbarity responded by ordering certain prisoners in hand to be brought out and hanged or mutilated. Among them was a clerk found guilty of forging. Pandulph at once declared he would excommunicate any one who laid hands on a churchman; and John gave way and set the prisoner at liberty. The term allowed the king to reconsider the question of resistance, expired in the summer of 1212, and thenceforward he was an outlaw to all Christendom, whose life and crown any man that would might attempt. Several of the English barons were in correspondence with France. The three princes of North Wales were informed that they were absolved from their allegiance, and their land, no longer English territory, was in consequence freed from the interdict.² John for a moment was careless and confident. He hanged the Welsh hostages, and resolved to march an army into the principality. But while he was at table at Nottingham, returned apparently from a foray in the north against the lands of Eustace de Vesci, whom he had tried to outrage, and who was then in revolt, he received despatches from several parts of the kingdom, which left no doubt that treason was in the air. The king of Scotland, De Vesci's brother-

¹ *Annales de Waverleia*, pp. 268-271; *Annales de Burton*, pp. 209-217. These are the only authorities that give a full account of the synod; but it seems probable.

² *Brut y Tywysogion*, A. 1212, p. 293. Llewellyn allied himself with Philip. Bouquet, xviii. p. 168, note a.

in-law, Llewellyn of Wales, the king's own son-in-law, were preparing, in concert with most of the great barons, to throw off their allegiance. One account said that Simon de Montfort had been elected king.¹ It was doubtful how far the men then serving under the king could be trusted. John was panic-struck, disbanded his forces, and for seven days shut himself up in the castle of Nottingham, expecting the worst.² As no actual outbreak occurred, he recovered some confidence and moved south. But from that day his arrogant self-reliance, which had never been based on a strong character, was broken.

The spring of 1213 was passed by the kings of France and England in making great preparations, Philip to invade, and John to repel invasion. In a council held at Soissons the preceding autumn, the French nobles, with the single exception of Ferrand of Flanders, who was in secret league with the enemy, had all welcomed the project of a second Norman conquest under the papal banner; and even Ferrand did not venture to refuse attendance. Nor was the English

¹ *Annales de Dunstapliâ*, p. 33.

² *Itinerary of King John*. The chronology of these events is very difficult. Most accounts agree that John remained some time at the castle of Nottingham, (the *Annals of Margan* say fifteen days), and then retreated upon London and demanded hostages. Wendover apparently refers the quarrel with Eustace de Vesci and Robert Fitz-Walter to this date, as do the *Annals of Waverley* and the *Continuation of Hoveden and Trivet*. But the residence in Nottingham, followed by a retreat upon London, must belong to the month of September. He-

mingburgh's detailed story of Eustace de Vesci's quarrel, followed by his being driven into Scotland, can only be placed in the month of June, when John advanced, apparently on a military expedition to the borders. Lastly, we know that the quarrel with Robert Fitz-Walter was ostensibly on account of his laying siege to the Abbey of St. Alban's. (*Paris. Vitæ Abbatum S. Alb.*, pp. 106, 107). Probably, therefore, his fortunes ought not to be connected immediately with those of Eustace de Vesci, though they may have been in correspondence. John was at St. Alban's, Sept. 19, 20.

government remiss. Every ship large enough to transport six horses was pressed into the royal service; and every free-man who could bear arms was ordered to attend at Dover, Faversham, or Ipswich, under pain of the penalties of a deserter, forfeiture of estate and servitude. The crowd that answered the summons was so enormous that the king's generals sent back all who were not soldiers, military tenants or their servants, archers or sling-men. There still remained sixty thousand men on Barham Down alone, including, however, fourteen thousand Flemings and Welshmen, and five hundred soldiers from Ireland under John de Grey. The fleet actually crossed the channel and destroyed or captured a part of the French navy, and burned Dieppe. But John's fatal irresolution returned as ever at the prospect of staking everything on the issue of a few days. He distrusted every one around him, not without reason; and he was haunted with superstitious fears from the prophecy of a vagrant hermit, Peter of Wakefield, that he would lose his crown before Ascension-day. On the other hand, the agents of Rome had no reason for pushing matters to extremity. The chance of Philip's success against a large army on its own soil was a little more than problematical to those who remembered the issue of Henry II.'s and Richard Cœur de Lion's wars. Should Philip and his army be destroyed, the pope would be exposed single-handed to cope with Germany and England; should Philip succeed, the sovereign of France and England would be a more dangerous rival than any emperor. Pandulph watched his opportunity and crossed over. The man who had certainly courted martyrdom for his Church, and who had almost suffered it two years before, when John's power was unbroken, approached the

trembling king now in this season of doubt and danger with irresistible ascendancy. He told John that Philip was coming over with a matchless army, with the exiles in his train, and with letters of invitation from the whole baronage of England. Let the king delay no longer to make his peace with God. There was still a day for repentance, and the Church would absolve the penitent and restore his kingdom to him. John faltered and gave way; the prophecy of Peter the hermit terrifying him more, it is said, than the dread of France, or of his faithless barons, or of hell. He promised to receive Stephen Langton and the outlawed bishops and barons to an honourable peace and full restitution; to give up the right of outlawry against all churchmen for the future, and to submit all questions of compensation to papal commissioners. In return for this the interdict was to be remitted. These concessions, at such a moment, ignominious if the king had been in the right, were perhaps not very excessive, if he had been in the wrong. But there was more behind. John had now made peace with the pope; but he was still in the same danger as before of a French invasion. To avert this a new expedient was devised. On the vigil of the Ascension, the king and his council met Pandulph in the Templars' house near Dover, and John solemnly resigned his crown, with the kingdoms of England and Ireland, into the pope's hands, to be held henceforth by fealty and homage by John and the heirs of his body of pope Innocent and his successors. In token of the service due seven hundred marks tribute was to be paid yearly for England, and three hundred for Ireland. In extorting sums of money from the clergy, John had been accustomed to make them give quittances, declaring that they gave the money of

their own free will.¹ The fraud was now retorted upon himself, and he was obliged to declare, in the preamble of this charter, that he resigned the kingdom not by constraint of the interdict, or from any fear, but of his own free will, and by counsel of his barons, to make satisfaction for the sins of himself and his family.² The Plantagenets had indeed fallen low.

On John's share in this transaction little need be said. Had it been the mere act of a devotee anxious to endow the mother Church of Christendom, a gift like Matilda's to Hildebrand, it would have passed unblamed or applauded by monkish historians. But the writers of that and the next century, strong churchmen, who censure John for his defiance of the interdict, are almost unanimous when they express any opinion in their contempt for his cowardly capitulation, and in execrating "the detestable charter of England's tribute."³ His act was, in fact, high treason against the liberties of Europe. But the exaction was, perhaps, as infamous to the pope as the concession to the sovereign. For John's vassalage carried with it no aggrandizement to the papacy, so far as that could be distinguished from individual popes. Innocent had added a new ornament to his regalia; but he had won no battle of principle, and his triumph left the Church weaker by all that unutterable hatred which a degraded nation feels to the author of its humiliation.

¹ *Annal. de Waverleia*, p. 268.

² *New Rymer*, vol. i. part i. p. 115.

³ *Paris, Hist. Major*, p. 658. "De libero fecit se servum et de dominante servientem." *Hemingburgh*, vol. i. p. 238. "Rex . . . nondum intelligens se nomen regum et pristinae dignitatis honorem amisisse." *Chron. de Mailros*, Gale, i. p. 187. The

Continuator of Hoveden, p. 167, and the *Hist. Croyland*, Gale, i. p. 473, say, however, "rex ut creditur inspiratus ab eo in cujus manu corda regum consistunt." This certainly was not the opinion of the English barons, either in 1245, when they tried to get the charter annulled, or when they refused to continue the tribute under Edward III.

From that day forward it became progressively more and more unsafe for a papal commissioner to set foot in England; the number of monasteries built steadily declined;¹ Parliament and Oxford quietly defied the papal rescripts; and while the clergy retained and increased their old ascendancy the feeling against Rome grew to a pitch which could gain little increase from the Reformation. But Innocent's act was dishonourable, as well as impolitic. On the strength of the papal sentence of deposition, Philip had assembled a large army incurring heavy expenses to no purpose, and the princes of Wales and the English barons had provoked the resentment of a man who never forgave. All found themselves suddenly deserted by an ally who reaped the whole profit of the transaction. It is not easy to calculate how much the after-diplomacy of the popes must have suffered from this treachery, or what deeper traditions of resentment must have been handed down in families whose ancestors had suffered in the barons' war. Innocent's character had a greatness of its own, a statesman-like grandeur of conception, a churchman's inflexible resolve, the versatility of a man of the world; but withal there was that strange taint of vulgarity, which clings to so many old Roman memories—the lust to seem great, the hankering after purple and diadem.

The immediate effects of John's baseness were as he had calculated. The fatal feast of the Ascension passed safely, and he was able to order that Peter the hermit

¹ From the accession of Henry I. to John's death, five hundred and eighty-five monasteries were founded, or at the rate of five a year; in Henry III.'s long and peaceful reign, under a superstitious king, and during

the rise of the mendicant orders, the average diminished to 3.67; by the end of the next century it had sunk to one a year. Raumer's *Political History of England*, vol. i. p. 110.

should be dragged at a horse's tail and hanged as a false prophet, though men whispered that his prophecy had come true. A more important result was that Pandulph leaving England with eight thousand pounds, the earnest-money of the promised restitution,¹ persuaded the English bishops to accept it, and return. But the king of France was less tractable when he learned that John was guaranteed his throne by Innocent, and swore that he had spent sixty thousand livres at the pope's instigation, and would not now recede from his enterprise. Neither would he have done so, if the count of Flanders had not been emboldened to refuse serving a king with whom he had a quarrel against one with whom he was in secret league. This diverted Philip's wrath, and he turned the whole strength of his expedition against Flanders. But shortly after the French fleet had anchored in Swinemünde, and while the fighting men of the crews, expecting nothing less than an enemy, had gone out to plunder, an English fleet of five hundred ships under William, earl of Salisbury, the count of Boulogne, and the count of Holland,² arrived to succour their ally. The work of havoc was easy. Three hundred ships were cut adrift to be pursued and captured afterwards, while a hundred that had been drawn up high and dry were burned. Philip and his barons lost all, it is quaintly said, that they had

¹ The story in Paris (*Hist. Major*, p. 237,)—almost certainly a fable, as it only rests on his authority—that Pandulph trampled the money given him “in arrham subjectionis” under his feet, probably refers to this sum, the first payment of tribute being in fact not due till the next Michaelmas, when the legate came to claim it, and complete the ceremony of

submission. Wendover, iii. p. 275. The whole policy of Rome, however, was to conciliate the king.

² Wendover, iii. p. 257. *Armoricus* and the chronicler of St. Denys do not mention the count of Holland; but *Brito-Armoricus* speaks of him soon after the action at Swinemünde as in John's service. Bouquet, xvii. pp. 238, 239.

most pleasant in life. The success was a little marred by the over-confidence of the commanders, who disembarked their men and horses to pursue the fugitives, and were themselves driven back with loss as reinforcements came up. None the less was Philip compelled to break up his army and return home foiled, and all hope of invading England had to be adjourned till another navy could be built, or till the aid of native allies should make the command of the sea less indispensable.

When John heard of the brilliant success his fleet had achieved, he dismissed the militia of the country, which was no longer needed to defend its shores, and summoned his barons to assist in an expedition against Poitou, where Savary de Mauléon's defection had lately shaken the English power.¹ But the nobles, dissatisfied with John's submission, and dreading any increase of his power, refused to follow him till the sentence of excommunication was removed. The king was thus forced to meet Langton and the bishops, and the hope of avoiding one last humiliation, perhaps of evading full performance of his compact, had to be abandoned. Characteristically enough, he now paraded the ostentation of his disgrace before the kingdom. When the prelates arrived at Winchester (July 20), John went out to meet them, grovelled at their feet, and implored them with tears to have pity on himself and the kingdom. He swore, as he had promised, to restore to the Church its rights and its plundered property; he swore at the archbishop's bidding to observe the good laws of king Edward and his predecessors, and to give every man even-handed justice; of his own accord he renewed the

¹ See John's letter of Aug. 22, concerning a reconciliation. Rymer, vol. i. part i. p. 175. He had taken part in the campaign of Flanders. Philippidos, Bouquet, xvii. p. 234.

oath of homage to the pope, the disgusted primate in vain protesting against the needless dishonour to English liberty. The sentence of excommunication was then removed, the magnates, we are told, weeping for joy, and mass was celebrated. Next day orders were issued to the sheriffs to hold inquests into the losses sustained by the clergy. But the king had not yet attained the object he had at heart. When he reached Portsmouth to embark he was greeted with loud complaints from the men-at-arms that they had spent their money while waiting for the king to come, and could not now embark unless supplied with means for their support from the royal treasury. John furiously refused. The Northumbrian barons had not even answered the summons, declaring that by their tenures they were only bound to do duty on the marches.¹ It was evident that the king would get no service, except on constraint, from Englishmen. He set sail with his own retinue, apparently hoping to be followed, but neither shame nor loyalty could conquer the just spirit of disaffection. The army melted away, every man to his own home. The king now determined on revenge, and writing word to his ally, Raymond of Toulouse, that he had been detained by contrary winds, set out for the north, resolved to call the recusants to account. But at Northampton (August 31) he was visited by the primate, who reminded him of the oath he had taken to execute justice, and warned him that if he dared to infringe it by making war on his peers, without due sentence of law,²

¹ Coggeshale, Bouquet, xviii. p. 106. They also put forward the plea of exhausted resources.

² The king was bound before making war upon a vassal to give him formal notice that he had put him out of his protection (*diffidave-*

rat). Even then if the baron offered to submit to the judgment of his peers, the king had no right to attack him. Stephen was justly blamed for violating the first principle in his attempt to surprise the earl of Chester; (Malmesbury, *Hist. Nov.*,

every man who followed him should be excommunicated. John was obliged to submit sulkily to the slow and unwonted process of summoning his barons to appear and answer before his court.

The primate's audacity was no isolated act or hasty impulse. In forcing John to swear at Winchester that he would observe the laws of king Edward, Stephen Langton had in fact indicated a programme of political action which he never afterwards lost sight of. One of his first cares had been to convene a synod of the clergy in the church of St. Paul's, London¹ (August 25), to assess the damages they had suffered during the interdict, and the meeting was attended by many lay lords, who probably had similar wrongs to redress. In a private assembly of the more important, the archbishop produced a copy of the charter granted by Henry I. at his coronation, which not only confirmed the Saxon laws, but specially abolished the principal grievances with which William Rufus had afflicted his barons, and which of late years had been revived by the Plantagenets. Arbitrary taxation, heavy dues of succession, oppressive fines, and interference with wardships and marriages, are the principal wrongs enumerated and annulled in this charter. It may seem incredible that Stephen Langton should speak of having discovered so important a document, and announce its contents, as a

p. 740), and the second earl Marshal, a little later, renounced his homage to Henry III. for breach of the second. Paris, Hist. Major, pp. 338, 398.

¹ The Annals of Waverley, p. 277, give a curious glimpse of the divided state of public feeling. When the archbishop gave out his text, "In Deo speravit cor meum et adjutus sum et refluavit caro mea," a loud voice from the congregation ex-

claimed, "per mortem Dei mentiris, nunquam cor tuum speravit in Deo nec refluavit caro tua." The offender was instantly seized and roughly handled, but it does not seem to have been known, or at least published, at whose instigation he spoke. Probably he was some monk, with royalist tendencies, or indignant at the promotion of a foreigner.

novelty, to the men whose immediate ancestors, at most three generations back, were contemporary with the grant, and whose fathers in Henry II.'s time had assisted at its confirmation in general terms.¹ It is possible that the primate, who had lived long abroad, confounded his own ignorance of the English constitution with general oblivion. But it is just intelligible also that in the interval of terrible anarchy under Stephen the substance of the charter may have escaped the remembrance of all but a few clerks in the royal courts, who had no interest in making its contents public. Jealous as the Norman barons were of their local franchises, their conceptions of national right, unless stimulated by some universal wrong, were apt to be tardy and imperfect, and they even had a prejudice in favour of customs² over a written code, perhaps as the more elastic of the two, perhaps as the less likely to be interpolated, which told terribly against reforms in legislation. The parchment records of their liberties were disregarded and cast aside till some crisis like the present occurred, in which evidence of an actual compact was required against a king who disregarded mere customs. Anyhow, the reading of the charter was greeted on this occasion with an applause and joy which seem to show that all felt it to supply a watch-word and a want, and the primate and nobles parted, having exchanged pledges of mutual assistance, prepared for the present to watch the issue of events.

¹ *Carta Regis Henrici II. Statutes at Large*, vol. i. p. 4.

² Thus Matilda, though generally supporting Henry II., disapproved of the Constitutions of Clarendon, "quod in scripturam redacta essent," (*Epist. Becket*, 346), and Fitz-Stephen makes the same point, "scriptæ nunquam prius fuerant . . . hæc consuetudines."

Vitæ Becket, p. 216. He adds very justly that a custom could not overrule a law. In this lay the weakness of a cause which rested on unwritten franchises. Compare Bracton, cap. i., on the want of written laws and the prevalence of customs in England.

At Michaelmas the new legate, Nicholas, bishop of Tusculum, arrived. Although Stephen Langton had slightly mitigated the severity of the interdict, the pope did not care to remove it till the claims of the clergy had been satisfied and the vacant sees and benefices filled up. Before long the legate's conduct gave great offence to the English clergy. The train of seven horsemen with which he entered the country swelled to fifty. In the conferences for assessing damages, it was evident that the pope's envoy leant to the king's side instead of arbitrating impartially. While the sees were kept vacant because the king persisted in recommending his favourites,¹ and applied for the support of Rome against the English Church, the legate openly carried out the royal wishes in nominations to minor pieces of preferment. The indignant primate first forbade the appointments, and then, finding his authority disregarded, appealed to Rome. But his envoys were unsuccessful. Pandulph had just arrived, bringing with him the formal charter of John's subjection with a golden seal appended; and while he exhibited this evidence of royal devotion, declared that the whole quarrel of the bishops with the king was a question of money. Innocent skilfully avoided deciding on his legate's conduct, and contented himself

¹ Note i. to Wendover, iii. p. 277. In the case of Durham, John's nomination was confirmed by the Pope (Fast. Ecc. Ang.); in the case of Lichfield, Pandulph is said to have annulled it, and a new candidate was chosen. *Anglia Sacra*, i. p. 437. In the case of St. David's there was a free election, the king vainly recommending Hugh Foliot. At Chichester, where Godwin and Sir Harris Nicholas place Nicholas de Aquila, from 1209-1215, (com-

pare Rotulide Literate, pp. 148, 170), Richard le Poor was consecrated in Jan. 1215; but the circumstances of the election are unknown. The appointment of Simon of Apulia to Exeter was nominally royal, but probably, as an Italian, he was favoured by Rome. On the other hand, the nomination of Walter de Gray to Worcester was probably crown patronage. He was the nephew of Stephen Langton's unsuccessful rival.

with issuing a bull, which the representatives of either side agreed in desiring for the relaxation of the interdict. John was absent in Poitou when the joyful news arrived, but his viceroy, William, earl Marshal, and the legate lost no time in convening a great council of the realm in London. Security was there given, to the primate and exiled bishops, that the forty thousand marks which had been agreed on as the compensation due to them should be paid up in full. Then the interdict, which had lasted six years, three months, and fourteen days, was solemnly removed, while the church bells pealed, and the *Te Deum* was chanted. Amid the general joy there was a sound of shrill and deep lamentation from abbots and priors, knights templar and hospitaller, clergy and laymen, who had endured insult and spoliation at the hands of the king's officers during the quarrel with Rome. It had probably been part of the papal policy to ignore very much the claims of these half-hearted brethren, "without infamy and without praise," who had done Rome reluctant service, though they had not dared to disobey. The legate, however, dismissed them with fair words. He himself had been bound not to exceed the apostolical mandate, which made no mention of their claims, but he counselled them to apply to Rome and demand full justice. The answer was sufficient, and they went sadly to their homes, giving up all hope of redress. No further notice was ever taken of their claims. John had, indeed, purchased his release cheaply in buying the spoils of the Church for five years, at the price of forty thousand marks, with perhaps a bribe to the legate, a light tribute, and inappreciable infamy.

CHAPTER III.

MAGNA CHARTA.

CAMPAIGN IN FRANCE. BATTLE OF BOUVINES. PEACE WITH FRANCE.
 CONFEDERACY OF BARONS. BEGINNINGS OF CIVIL WAR. RUNNIMED.
 GENERAL AND SPECIAL PROVISIONS OF MAGNA CHARTA. ITS CON-
 STITUTIONAL IMPORTANCE.

JOHN'S campaign in the south of France opened brilliantly. As soon as he arrived at Rochelle, the barons of Poitou, by this time weary of their stern native master, flocked to his standard. Within a week after he had crossed the borders, he had stormed the castle of Miravent and reduced Geoffrey of Lezinan to extremities in his other fortress of Novent. The count of Marche now interposed, cast the old feud into oblivion, and concluded a treaty of alliance with the English king, by which John's daughter, Jane, was to marry the son of her mother's old lover. Backed now by the whole power of the south-west, and triumphantly calling the English baronage to his standard, John crossed the Loire, attempted Nantes unsuccessfully, and then, having captured Angers, sat down before Roche-aux-Moines. But, while the courage of the garrison, who defied the threat to give no quarter, detained him, Louis, who had at first been unable to meet the English in the field, succeeded in collecting an army and advanced to raise the siege. John, at first, misinformed of the numbers of the enemy, prepared to meet them

in the field. But the barons of Poitou, already sick of their new service, or having only joined it for the sake of plunder, declared that they were in no condition to fight a pitched battle; and John, unnerved by the fear of treachery, retreated in confusion across the Loire. Curiously enough, Louis had already renounced the idea of an engagement as impracticable, and had marched some miles away from the flying enemy, when he learnt the true position of affairs in time to come up with the rear-guard and cut a portion of it to pieces¹ (July 3). John still lingered in Poitou; but the tide of success had turned, and the rout of his ally at Bouvines made it impossible for the English king to think of anything but peace and the ransom of his allies.

While John, however ingloriously, had occupied a French army in the west, his nephew Otho, at the head of the forces of the empire, strengthened by all the Flemish nobles and by a large contingent in the English pay, under William, earl of Salisbury,² had crossed the frontiers of France and reduced Tournai. Formidable as his attack would have been at any time, it was doubly dangerous at this moment, from the disaffection of the French nobles to their king; so that not only the counts of Flanders and Boulogne were in open revolt, but many of less name were prepared to desert. Nothing less, indeed, than the destruction of the French

¹ Armoricus represents Louis as driving John in disorder across the Loire. Bouquet, xvii. 93. But Armoricus was not present. Wendover mentions no action at all; and allowing for English reticence concerning a defeat, we must also allow for an inclination on the French side to exaggerate it. It seems improbable that Louis would have wasted his time in reducing small forts if he

had obtained any signal success, especially as his army was a strong one — 2000 horse and 7000 men-at-arms. Philippidos, Bouquet, xvii. p. 245.

² Brito-Armoricus says that the earl of Salisbury commanded 30,000 English. Bouquet, xvii. p. 249. But the estimate seems excessive, and the nationality of the contingent more than doubtful. See p. 74.

monarchy was contemplated, and France reduced, in imagination, to the condition of a province of the empire, was already divided, on paper, among Otho's captains, Paris being the destined lot of Ferrand, count of Flanders, while the Vermandois was assigned to Reginald of Boulogne. Philip met the emergency with the whole strength of his kingdom, except the little army under his son, and the communes whom it had been his policy to encourage did good service, and even furnished a mounted militia. But the king perhaps owed most to the faulty generalship of his enemy, who allowed him to cross the little bridge of Bouvines unopposed and draw up his whole army on the plain facing his foe. Yet Philip's own strategy in destroying the bridge, which was his one road in defeat, although justified by the event, has a certain unsoldierly impress of desperation. The battle itself seems to have been a mere *mêlée*, in which the day was decided by sheer hard fighting. The right wing of the French first drove back the Flemings opposed to them, the count of Flanders being himself captured; the French centre, thus reinforced after three hours doubtful fighting, and further strengthened by a reserve of communal militias, which came up opportunely, overwhelmed the German centre under Otho; and the English on the right, who maintained their ground longest, were at last driven back by a charge of the fighting bishop of Beauvais, who smote their leader, William of Salisbury, to the ground with his own hands and with his canonical weapon—the mace. Both the sovereigns commanding had been in personal danger. Philip had been dismounted, it is said, by the count of Boulogne, and owed his life only to the loyalty of a few squires who fought over his body. Otho had three horses killed under him. Almost every great lord or bishop had some hair-

breadth escape of the same kind. Yet so far were the arts of defence superior in those days to the weapons of attack, that, even when a seigneur was dismounted and in the hands of his enemies, it was no easy matter for them to kill him; and the count of Boulogne actually escaped with his life in this way, because no crevice could be found in his armour in which a dagger could be inserted. Meaner men were, of course, easier victims. Yet, except in the case of seven hundred Brabançons, who remained fighting on the field and were cut to pieces, there does not seem to have been any great slaughter; and one French lord, who had done his duty in the thick of the fight, had only one soldier seriously wounded out of two thousand and fifty whom he took into the field. The results in prisoners were more important, the heavy-armed cavaliers being, of course, proportionately unfit for flight. A hundred and sixty-five prisoners of noble rank are enumerated by Philip's chaplain as taken in the battle, and a few were captured afterwards, as the pursuit was followed up. Among all, only three names occur which can be identified with any certainty as English,¹ and it is probable, therefore, that John's contingent was chiefly composed of mercenaries or of the retainers of the count of Boulogne, who was now an English vassal. Yet the importance of the battle of Bouvines for England and Europe can hardly be over-estimated. It consummated the separation of France and Germany which had first been established at Fontenoy, and gave

¹ The earl of Salisbury and his brother, Raoul Bigot, and, perhaps, Hugo de Bellolio (Balliol?) mentioned as an English subject. Rot. Litt. Pat., p. 135. Armoricus, Bouquet,

xvii. p. 101. Anselm de Riparia, (Rivers) is, however, mentioned in the Patent Rolls, p. 127, as a prisoner in the king of France's custody a few months later.

the weight of prestige to the Latinized nationality. It was the triumph of monarchy—tending to a centralized government in Paris—over feudalism and provincial rights. Lastly, it destroyed John's troops and ruined his reviving authority at a moment when it was most important for England that her tyrant should be weak. His superstition for once took a healthy turn when he exclaimed that nothing had gone right with him since he had become the vassal of the Church. It would be indeed curious to speculate what the state of Europe might now be if the real power of England under a popular monarch had been thrown into the balance against France at the battle of Bouvines.

The news of their sovereign's success quickly brought back the Poitevin barons to their allegiance. Philip, however, was not contented with mere promises of submission. He marched an army into the province, and the news of his arrival at once induced the viscount of Thouars, the most eminent of the rebels, to procure a formal reconciliation. Yet the terms that Philip granted to John are so ample, considering the contracting parties and the issue of the late battles, as to show that the power of England was still formidable, and perhaps, also, that Philip was unnerved by the discovery of his subjects' disaffection. A truce for five years was concluded on the basis of the *status quo* to both contracting parties, and a commission was appointed to enforce the conditions of the treaty. Politically, the arrangement was most beneficial to the French, who were certain to gain by any interval of quiet that restrained the English from resuming their unnatural dominion in a foreign country. But diplomatically, the English king had for the first time treated on equal terms with one who was now the most powerful sovereign in Europe.

It must be added, to John's credit, that he showed an honourable desire to support his allies. His Poitevin adherents, who had not deserved very well of him, were considered in the treaty, and he refused for a time to redeem his brother and staunchest adherent the earl of Salisbury, because it was believed that, if he exchanged the count of Dreux for him, Philip, undeterred by any fear of reprisals, would at once put the counts of Flanders and Boulogne to death.¹ Unhappily, John was less rigid when the claims of the Church came to be urged against his late supporter, count Raymond of Toulouse; and one of his first official acts, after his return to England (November 4), was to issue a persecuting edict against the Albigenses of Gascony (November 22).

Although John had been able to keep an army and a contingent in the field, many of his barons had remained behind in England, and those of the north especially had again put forward their plea of exemption from all service except on the marches. As it was certain from the first that the king would try on his return to revenge himself, and as the government of Peter des Roches, bishop of Winchester, who had succeeded Geoffrey Fitz-Petre as justiciary, was found intolerably oppressive, the nobles resolved on resistance, and within a few days after John had landed and begun to levy scutage on all who had neglected to follow him, a meeting of nobles was held at Bury St. Edmund's, under pretext of celebrating the saint's festival (Nov.

¹ New Rymer, vol. i. part i. p. 191. The report of Philip's intentions derives some confirmation from the rigorous imprisonment to which both counts were subjected; the count of

Boulogne in particular being so shackled that he literally could not move a step. *Armoricus*, Bouquet, xvii. p. 100.

20).¹ The charter of Henry I. and the laws of Edward the Confessor were read aloud, and the barons swore, one by one, on the high altar, to demand the observance of these liberties from the king, and to constrain him by arms and withdrawal of fealty if he refused a peaceable consent. As men, however, who knew the risk of their enterprise, at a time when every fortress in England was garrisoned by royal mercenaries, they agreed to collect men and arms, and to meet after the approaching Christmas and urge their petition with an army at their back. The precaution was the more necessary, as John, vaguely sensible that there was thunder in the air, and alarmed by the recall of his partisan, the legate, tried to detach the clergy from the national cause by granting them absolute liberty of election. This remarkable charter was issued the very day after the barons' meeting at Bury St. Edmund's, and it reflects the highest credit on Stephen Langton and his followers that the enormous bribe to their feelings as churchmen, backed, as it was, in many cases, by restitution of honour and estates, failed to make them forget that they were citizens.² To the barons, of course, the new charter was of no interest,

¹ The date of the day is conjectural from the saint's feast. Wendover only says, "*sub eâdem tempestate*," vol. iii. p. 293.

² The date of this charter is Nov. 21, or the day after the barons' meeting, and the fact that Stephen Langton does not appear as witness to it rather confirms the report that he received the barons' oath at Bury St. Edmund's. Statutes at Large, vol. i. p. 5. Concerning John's anxiety to be reconciled to the Church, the continuator of Roger

Hoveden says, "*eis (sc. episcopis) super omnibus damnis et injuriis satisfecit, aliis pecuniam, aliis libertates et honores, aliis maneria in recompensationem largiens*," Bouquet, xviii. p. 173. The Patent Rolls for Nov. 22 record a grant to Simon Langton, two grants to the bishop of Ely, a promise of reparation to the bishop of London, and a grant of the patronage of the see of Rochester to Stephen Langton and his successors.

except as an item in John's degradation and a declaration of war against themselves. Accordingly, as soon as John came from Worcester, where he had held his Christmas court, to London, the confederates, in unwonted military array, waited upon him, and claimed that he should perform the oath which he had sworn at Stephen Langton's bidding in Winchester, and confirm the constitution defined by the charter of Henry I. The king feared to refuse compliance with the demand of armed men, ready for action, and begged for time, that he might think the matter over and give his answer at Easter. The barons reluctantly consented, their cause being as yet espoused only by about half of the nobility, and the primate, the bishop of Ely, and the earl Marshal were persuaded to become sponsors for the king's good faith. The pledge was a perilous one, for John meditated nothing less than observance of his word. He was singularly destitute of counsellors and supporters, for the legate had left the country in disgrace for maladministration, and Geoffrey Fitz-Petre and the bishop of Norwich were dead; but he took instant steps to procure the release of the earl of Salisbury,¹ abstained for a time from any gross act of oppression, and sent commissioners to the different counties to explain his quarrel with the lords,² and enforce new oaths of homage on the free tenants. But he counted too much, in a time of popular excitement, on the silent unceasing feuds between gentry and baronage. Men generally refused to take the oath with the new clause inserted, that they would support the king against

¹ Rot. Litt. Pat., p. 128.

² "Rex comitibus, &c. de comitatu Hertford. Mittimus ad vos dilectos et fideles Walterum de Lacy, &c., ad

exponenda vobis negotia nostra, &c. Teste me ipso x^o. die Feb." Similar writs were issued for other counties. Rot. Litt. Pat., p. 128.

"the now talked-of charter,"¹ and John was obliged to desist from the attempt. He had thought of bringing over troops from Poitou, but the tidings of general disaffection alarmed him, and he hastily recalled his orders.² Nothing now remained but to claim the protection of the Church, and hold his castles till the barons were wearied out, or till a royal party arose. That no precaution might be omitted he assumed the white cross, in the hope of investing himself with the inviolable character of a crusader. But his chief trust was in Innocent. The pope had been applied to by Eustace de Vesci, as the barons' agent, in the preceding autumn, and had sternly admonished them not to disturb the course of royal justice. The cruel irony fell upon deaf ears. Both parties now sent commissioners to Rome, and Innocent unhesitatingly supported his vassal. He blamed the barons, who demanded, sword in hand, the rights they ought to have, prayed humbly and devoutly of "our dearest son in Christ, the illustrious king John," and he blamed the bishops who had sympathized with the barons. But the apostolical counsels reached England³ when the whole nation was in revolt.

By Easter the party of reform, numbering four earls and forty great barons, had assembled a large and well-appointed army. They halted at Brackley, in Northamptonshire, to receive the primate and earl Marshal, who came as royal commissioners to learn their demands.

¹ "Contra chartam jam dictam." Contin. Rog. Hoveden, Bouquet, xviii. p. 173.

² The writs annulling the summons state that the business for which they were called over was terminated. Rot. Litt. Pat., 130. But

there is no historical record of any negotiations for a compromise at this time.

³ Innocent's letters are dated March 18. New Rymer, vol. i. part i. pp. 196, 197. They would naturally reach England in about six weeks.

When these were reported to John, who was then at Oxford, he asked, with a bitter laugh, why the barons did not at once ask for the kingdom, and swore that he would never yield liberties which would leave himself in the position of a slave. As soon as his answer was known, the barons declared Robert Fitz-Walter "Marshal of the Army of God and of Holy Church," and proceeded to invest Northampton. But, wanting all engines of war, they could effect nothing, and accordingly marched on London, receiving admittance, by the way, into Bedford from the governor, William Beauchamp. London was opened to their advance-guard by a friendly party among the citizens (May 24), and the royal troops were easily overpowered, though the garrison of the Tower held out to the last. The soldiers of the Church filled their purses with the spoil of royal partisans and of the Jews, who always suffered in time of civil commotion, and who saw the very stones of their houses taken away to strengthen the city walls.¹ The metropolis became the centre of operations; but the whole country was in rebellion. Alexander of Scotland and Llewellyn of Wales were said to favour the revolt, and it often happened that where the father was royalist the son was in the camp of the insurgents. Presently one party seized Exeter, another Lincoln, and a riot took place in the streets of Northampton, in which many of the king's garrison were slain, the remainder retaliating by burning part of the town. As always happened in civil wars, the royal parks and forests were among the first objects of attack. John had tried in vain to induce the primate to excommunicate the rebels, and the letters of Innocent were mere waste paper. In his extremity

¹ Coggeshall, Bouquet, xvii. p. 107.

the king reverted to his favourite expedient, and called over his mercenaries from Poitou and other parts.¹ The unpopular act probably contributed to detach the remainder of his adherents, and he found himself by the beginning of June with scarcely seven horsemen in his train. Even the bishops, who were nominally on his side, except the deeply injured Giles de Braose of Hereford, were of doubtful loyalty, and the earl Marshal himself had a son, his eldest, among the insurgents.² In this extremity, fearing to be overpowered, and dreading the arrival of the northern barons, who were known to be on their way, and who were his bitterest foes, John consented to a conference between Staines and Windsor. The army of the barons encamped on the broad plain of Runnimede, on the southern bank; the royal forces were on the north, and negotiations were carried on in an island. John came prepared to concede everything, and the great charter was agreed to and received the royal seal in a day. Probably the king's warmest adherents were not greatly averse to its stipulations.

The Charter opened with the customary declaration that the Church was to have her rights and liberties inviolate, and with a protest that the late grant of free elections should be so maintained as to show that the king had granted it of his own free will. The remaining articles turn mainly on the rights of person and property—the first as affected by John's perversion

¹ See the writs concerning Savary de Mauléon and his Poitevins, May 11; the safe conduct to Henry of Balliol, a foreign subject, to come with arms and horses, May 12; and the writ of May 20, "*Rex omnibus illis qui venturi sunt in Angliam in servi-*

cium suum." Rot. Litt. Pat., pp. 135, 137.

² William Marshal. Curiously enough the earl's nephew, John Marshal, remained faithful to the king. Wendover, iii. p. 302; Thomson's *Magna Charta*, p. 289.

of justice, the second by his irregular taxation. The thirty-ninth article, that "no freeman shall be seized or imprisoned, or dispossessed, or outlawed, or in any way brought to ruin; we will not go against any man, nor send against him, except by legal judgment of his peers, or by the law of the land,"¹ is a broad statement of personal liberty against the servile doctrine which lawyers were then importing from Roman codes, that "the precepts of the king were the bonds of law."² The next article, "we will sell,³ we will deny, we will delay to no man justice or right," contains the principle of the Habeas Corpus Act, which is practically guaranteed by the thirty-sixth—that the writ of inquisition of life or limb was to be given without charge, and not denied.⁴ But as the abuses of practice were almost as

¹ Compare Henry I.'s charter, "*Legem Edwardi regis vobis reddo cum illis emendationibus quibus pater meus illam emendavit consilio baronum suorum,*" and Stephen's, "*Pacem et justitiam me in omnibus facturum et pro posse meo observaturum eis promitto.*" Statutes at Large, vol. i. pp. 2, 3.

² "*Præcepta regis sunt nobis vincula legis.*" *Piers Plowman*, vol. i. p. 9. The quotation is probably not much older than the poem; but it is only another form of Bracton's law: "*Nemo quidem de factis suis (sc. regis) præsumat disputare, multo fortius contra factum venire.*" It is true Bracton's theory was that the king ought to be at harmony with the law. But John had advisers of another kind: Master Alexander Cæmentarius told him that he was appointed by God to bind his nobles in chains, and his princes in links of iron. Wendover, vol. iii. p. 230. John of Salisbury (*Polycrat.*, iv.

c. i.) says much the same, though with practical abatements; cf. cap. 7. The precedent for all this servility is to be found in Ulpian's famous dictum, "*quod principi placuit legis habet vigorem.*"

³ The brief of inquisition was to see whether persons accused on a charge for which bail could not be taken had been accused on good grounds or maliciously. Bracton, fol. 122. It is, of course, anterior to *Magna Charta*, which only provides that it shall be issued at once and gratis.

⁴ The venality of judges was an early abuse. "*Plebiscito continetur ne quis præsidium munus donumve caperet nisi esculentum poculentumve.*" Joan. Sarisb., *Polycrat.*, v. 15. The fines frequently mentioned as a part of legal proceedings were not necessarily or perhaps commonly bribes. They are said, however, to have decreased after this enactment. *Madox's Exchequer*, vol. i. p. 455.

flagrant as those of theory, separate Articles provided that the great Court of Common Pleas was to be held in a fixed place, and no longer to follow the royal progresses (17)—that judges of assize were to make regular circuits four times a year (19), and to be assisted by four knights (18) of the county visited at their sessions¹—that the justiciaries were to be chosen from among men well versed in law² (45)—that royal officers, such as sheriffs and coroners, were not to hold pleas (24),—and that royal bailiffs were not to bring men to trial at their own pleasure without credible witnesses³ (38). The germ of the great principle, that the administration of justice is independent of the political administration of the county, is to be seen in all these provisions. Important practical additions were the enactments that the penalties of law were to be assessed by the delinquent's peers, and were not to affect his means of livelihood⁴ (20-22),—regulations which reasserted the principle first affirmed by William the Conqueror, that correction not vengeance was the ob-

¹ This enactment differed from the regulation of the Council of Northampton in multiplying the number of assizes, and in adding a popular element to the royal commissioners. Moreover, in 1179, Henry II. had replaced the circuits by a central court; and when this was given up, two years later, the country was divided into districts under permanent commissions. *Benedictus Abbas.*, ii. p. 266. *Hoveden*, pp. 337, 338.

² John of Salisbury speaks of the ignorance frequently found among the judges of his day. *Polycrat.*, v. 11.

³ "Cum quis itaque de morte regis vel seditione regni vel exercitus in-

famatur aut certus apparet accusator aut non. Si nullus appareat certus accusator sed fama solummodo publica accusat, tunc ab initio salvo accusatus attachiabitur vel per plegios idoneos, vel per carceris inclusionem." *Glanville*, lib. xiv. cap. 1.

⁴ Compare *Dial. de Scac.*, ii. 14, where it is said, that in a distrain by the crown, enough food must be left to satisfy the wants of the debtor and his family. Similarly, the military tenant's arms and horse were to be left him. The author adds, however, that he had known this rule violated in former years, probably before Henry II.'s accession.

ject of punishment. In immediate importance these reforms in the judicial system, affecting as they did the morality and the self-respect of the whole country, perhaps deserve to rank first among the benefits which the Charter conferred. But to Englishmen all other interests are overpowered by the transcendent constitutional results of the articles limiting the king's power to tax. Hitherto there had been a vague principle, that the sovereign ought to follow the advice of the curia, and had no right to demand his subjects' money, except in emergencies or at intervals of unfrequent occurrence. It was now declared in express terms that the crown had no right to any taxes, except three reasonable or moderate aids when the king was in captivity, when his eldest son was knighted, or when his eldest daughter was married (15). Purveyance and impressments by bailiffs of cattle or timber were abolished¹ (23, 30, 31); the royal rents of districts and towns, as distinguished from estates, were not to be increased² (13, 25); and scutage for castle-guard was

¹ Anything so monstrous as a general right of taxing had never been claimed by any English monarch. But the feudal system gave many opportunities for vexatious fines, as John had shown in his late levying of scutage; and William Rufus in his sale of licences for marriage, and other abuses. *Carta Henrici I^{mi}*. A. S. Laws, i. p. 499. Again, a rapacious king might revive an old tax, as Henry I. is said to have done with Danegeld. *Madox's Exchequer*, i. p. 685. An aid for a king's ransom must of course be of uncertain amount. When Henry I.'s daughter was married, he raised an aid of 3s. the hyde (*Hen. Hunt.*), p. 218; the

annual value of the hyde being then about 20s. (*Morgan's England under the Normans*, pp. 42, 43). Under Edward I. a reasonable aid was defined to be 20s. the fee, (3rd of Edward I., c. 36), the value of the knight's fee capitalized being in that century 400 marks. *Modus Tenendi Parl.*, p. 7. This did not affect the king's right of support in royal progresses, which was affirmed as late as 13 Charles II. c. i. (1661). But first his messengers and envoys, gradually the royal bailiffs and inferior officers, had come to claim the right of taking food and timber, and impressing horses at a fixed rate.

² This refers to the practice of

not to be demanded from any man who proffered personal service¹ (29). The succession duties were fixed at an invariable rate² (2). The service of knights' fees was not to be increased (16). Every precaution to assure the individual having thus been taken, the question of a general taxation remained to be grappled with. The most usual form of this was scutage, as the king had an undoubted right to demand his subjects' service in war; and, practically, many thousands would always be forced to commute in money for attendance. Apart from the grievance of this it was no slight evil that a king like John supplied their places with foreign mercenaries. Moreover, the assessment of this due was always more or less arbitrary, as circumstances had to be taken into account.³ It was therefore now enacted that the prelates, abbots, earls, and great barons should henceforth be summoned individually, and the other tenants-in-chief by a more general form, at least forty days before the day of

farming out cities and counties to corporations or individuals who repaid themselves out of the fines and tolls.

¹ This only related to service within the realm.

² They had already been fixed at certain dues in armour and horses by William the Conqueror; (*Leges*, i. 20; *A. S. Laws*, i. p. 475); and he had also fixed the knight's commutation at 100s., but had specified nothing about earldoms and baronies, probably because they were of uncertain value. It would seem that they had been disproportionally taxed in consequence. The effect of this regulation was to make more rigid the line already drawn between the greater and less nobility. Under Ed-

ward II. we find Thomas de Furnivall claiming not to be a baron, that he might avoid the dues. Report on the Dignity of a Peer, iii. p. 235. It is a little curious that the reliefs for an earldom and a barony should be the same. The fourth charter of Henry III. reads 100 marks instead of £100 for a barony; and in the *Modus Tenendi Parl.*, p. 7, the ratio of a barony to an earldom is estimated at 13½ to 20, or as a mark to a pound.

³ E. g. the Prior of Coventry was assessed at £10 for ten knights' fees in the 8th and 9th of Richard I.; at 20 marks in the 1st and 3rd of John; at 15 marks in the 15th of John; and at £5 in the 5th of Henry III. *Madox's Exchequer*, i. pp. 637-639.

meeting, to assess any extraordinary aids in common council.¹ The representative theory was guarded by the provision that the council's proceedings should be valid, in spite of the absence of any of its members (14). Parliament was thus established, without the local divisions of the French estates, or the anarchical rights of a minority in a Polish diet. An admirable provision extended the rights that had been guaranteed to the lords to the lords' vassals, who were only to pay regular aids in future to their seigneurs (15).² A few minor provisions completed the legislation on the rights of property. Among these the stipulations that debts owed to Jews were not to accrue during minorities, or to affect the widow's dower (10, 11), must be construed as provisions against the crown, which collected Jews' debts. The first provision seems unjust; but it must be remembered that the crown was the guardian of minors, and derived a large benefit from wardships, which two articles in the Charter (4, 5), endeavoured to reduce within reasonable limits. At a time when the rate of interest constantly exceeded fifty per cent. an estate farmed by royal officers would soon be swallowed up by even a moderate mortgage. In cases of debt to the crown, the realty was not to be distrained

¹ This representation fell below that of former years. At the council of Winchester (1141) deputies from the Londoners were present, "quasi optimates." (Malmesbury, *Hist. Nov.*, p. 747). Again, the citizens of London took part, in folk mote, in the deliberations of the council for deposing Longchamps, Oct. 1191. Hoveden, p. 401. Palgrave's *Rot. Cur. Regis*, i. p. 58. "In November, 1213, John convoked a general assembly at Oxford," and "ordered" (Nov. 15, 1213) "that the

sheriffs should send to Oxford four approved knights from each county, in order to consider with us the affairs of our kingdom." Parry's *Parliaments*, pp. 22, 23. New Rymer, vol. i. part i. p. 117.

² Accordingly, in 1258, Richard, king of the Romans, was obliged to obtain special leave to tallage his burghs and manors, the reason assigned being that he was incurring expenses to the honour and profit of the realm. New Rymer, vol. i. part i. p. 377; cf. p. 391.

on where the personalty was sufficient to answer all claims¹ (9). On the other hand, the crown was to have the first lien on all personal property (26).

There remain a few cases in which grievances affecting the dignity and feudal rights of the barons were redressed. The provision that widows were not to be distrained to marry while they were willing to live single, points to an odious and common abuse of power by our early kings;² only six months later, John, in violation of his pledge, gave the dowager countess of Albemarle in marriage to a worthless and ferocious adventurer, Faukes de Breauté. On the other hand, widows were not to marry again without the consent of their seigneur, were he king or lord³ (8). Similarly, heirs were to be married without disparagement to their rank, and their lands were to be properly cared for during the crown's guardianship⁴ (4, 5). In cases where sub-tenants had been convicted of felony, the crown was not to keep their lands in its hands more than a year and a day⁵ (32). In cases where lands escheated to the crown, so as to become part of the demesne, the heirs of the sub-tenants were to pay no

¹ "Debitorum . . . catalla quæ licite venduntur sunt eorum mobilia ac sese moventia." *Dial. de Scac.*, ii. 14.

² It had been provided against by a law of Canute, "And let no man compel either woman or maiden to him whom she herself mislikes." *A. S. Laws*, vol. i. p. 417, confirmed by Henry I., *Carta*, s. 3.

³ "Et si quis baronum vel hominum meorum filiam suam nubitum tradere voluerit sive sororem sive nepotem sive cognatam mecum inloquatur." *Carta Henrici I^{mi}*, s. 3.

⁴ "Et si filia hæres remanserit illam dabo consilio baronum meorum.

. . . Et terræ et liberorum custos erit sive uxor sive alius propinquorum, qui justus esse debebit." *Carta Henrici I^{mi}*, s. 3, 4.

⁵ Thomson says that this provision exists also in the French and Danish laws; the custom being that the felon's property was destroyed, and the waste belonging to the king for the term specified. *Essay on Magna Charta*, p. 213. Curiously enough, the *Book of Feuds* states, lib. ii. tit. 47, that by the better opinion the lord lost his fief by all felony of his vassals. But by Anglo-Saxon custom, (*Cod. Dip.*, 328,) the lord recovered his land.

other reliefs than they would have paid to their original lords¹ (43). Wardships were to follow the major tenure, so that a lord was not to be deprived of his guardianship over a military tenant because the ward held by socage tenure of the crown (37). The writ, "præcipe in capite," by which tenants had been wont to transfer themselves from the service of some lord to the king's, was to be abolished² (34); a provision of some importance, as the crown under an able administrator might easily have attracted half the kingdom into its service. Lastly, in the vacancies of abbeys their guardianship was to rest with the families of their founders (46).

Scattered here and there through the Charter are isolated provisions of great importance. It is difficult to understand why women were restricted from appealing for the death of any other man than a husband (54), unless we can assume that they had often been used as tools in vexatious prosecutions.³ The article

¹ The distinction of demesne land, "dominium regis," from escheated land held "in dominio," was ascertained by reference to Domesday book, which showed whether the land was classed as Terra Regis, or under a private name, in the Conqueror's time. If the latter, the tenants had also a right to be assessed for tallages in common with the men of the county. Madox, *Firma Burgi*, p. 5.

² "Also, when one of the king's immediate tenants, *in capite*, is deforced, his writ of right is called a writ of 'præcipe in capite,' the improper use of which so as to oust the lord of his jurisdiction is restrained by *Magna Carta*." Blackstone, book iii. chap. 10. p. 220. The case seems to be that of a tenant-in-chief holding

lands of some other lord besides the king, and trying to deprive that lord of his jurisdiction.

³ The difficulty of understanding this enactment is a little diminished if we regard it as part of the general tendency derived from the analogies of Roman law (*patria potestas*), to treat women as increasingly under the tutorship of a husband or a father, thus modifying, though not directly contradicting, earlier practice, by which even a wife could possess and transfer property by her own single act during the husband's lifetime; a power which certainly seems to imply separate accountability to the law. (*Codex Dip.*, i. p. cx.) Still it is difficult to understand in the cases of an unmarried orphan daughter, of

guaranteeing free trade and passage through the country to foreign merchants,¹ with the reserve of ancient and right customs, and without liability to damage in time of war, except for reprisals (41), indicates the great extension our commerce was taking; and the next article (42), in even wider terms, gives a general liberty of leaving the kingdom, except "in time of war, for some short space," which we may quote as a signal protest against the passport system. The enactment that there shall be uniform weights and measures throughout the kingdom² (35) was so much in advance of possibilities that it has never yet been carried out. The provision for removing all weirs in rivers was an assertion of general utility against individual profit³ (33).

a widow, or of a mistress, how, in the absence of a public prosecutor, they could obtain justice for the death of a brother or a son. Perhaps the suzerain, king or noble, was bound to take up the case. A case quoted by Kelham (Britton, iv. 7, note 9) proves apparently that the country might do it.

¹ Hitherto merchants, wishing to avoid the operation of the frankpledge system, (see vol. i. p. 572,) had applied for special protection, "*Rex omnibus ballivis et fidelibus suis, etc. Sciatis quod suscepimus in protectionem nostram et salvum conductum nostrum Johannem Wika de Duway et Jacob de Duway cum navi suâ et omnibus catallis et mercandisiis suis a festo S^ci Michaelis, anno r. n. 17, usque in unum annum sequentem faciendi inde rectas et debitas consuetudines.*" (April 14th, 1215). Rot. Litt. Pat., p. 133. After this provision in Magna Charta, which was probably in the interest of consumers

against retailers, John issued a writ, Sept. 13th, (Rot. Litt. Pat., 155), announcing to the king of France that all his subjects might traverse England freely. The article, however, must be understood as giving right of passage, not right of free trade in the modern sense, which was limited by numerous restrictions. Cf. *Leges Edv. Conf., Libertas Civitatum*, viii. ix.; *A. S. Laws*, i. pp. 463, 464. Three years later we find the first corn-law provision, in a writ to the sheriff of Waterford, to prevent Gerard of Camville and other barons from importing Irish corn into England, "*ad emendacionem regni nostri Angliæ.*" Rot. Litt. Claus., p. 359.

² It was, however, no new enactment. *Leges Edgar*, ii. 8; *Leges Gul. Conq.*, iii. 7; *A. S. Laws*, vol. i. pp. 269, 271, 491; and under Richard I., Hoveden, p. 441.

³ It is perhaps doubtful whether these *kidels* were *purprestures*: Glanville, lib. ix. cap. 11, "*dicitur purprestura . . . in aquis publicis obstruc-*

The obnoxious forest laws were to be the subject of a separate charter. But *Magna Charta* restricted their operation to parties living within the forest boundaries (44), and provided for their reform (47, 48, 53). The towns had always been favoured by John as his natural bulwark against the nobility,¹ and had latterly deserved well of the lords. It was ordered that they should not be distrained in future to build any new bridges or embankments (23), and generally, their liberties and free customs were confirmed—the city of London being mentioned with special honour (13).

It remained only to remedy actual disorders. All hostages and charters that had lately been taken into the king's custody, as guarantees for his subjects' loyalty, were to be given back in England, Scotland, and Wales (49, 58, 59). All foreign mercenaries were to be sent out of the kingdom; and the relations of Gerard of Athy, whose ignoble parentage² had perhaps made them specially odious, were to be removed from their bailiwicks (50, 51). In all cases where subjects, English or Welsh, had been dispossessed or fined unjustly in the last two reigns, or in the present, immediate restitution was to be made to them; or, if there were any controversy, it was to be decided by the verdict of the twenty-five barons who were appointed guardians of

tion," where the question seems rather to be of right of transit. But Richard I. had directed them to be removed from the Thames and Medway, 1197, (Thomson's *Magna Charta*, p. 214), and John had confirmed this regulation at his accession. Maitland's *London*, i. 73-75; *Liber Abbas.*, pp. 131-133.

¹ Thus, in 1203, he gave charters of corporation during pleasure to

Caen, Domfront, and Falaise. (*Madox's Exchequer*, i. pp. 524, 525). In 1192 he had granted one to Dublin, (*Moore's Ireland*, iii. p. 7), and in 1199 he gave one to London, (*Liber Custumarum*, p. 249), allowing them to elect their own sheriffs.

² He was "servus et a servis oriundus utroque parente." *Philippidos*, Bouquet, xvii. p. 217.

the Charter. The only exception allowed was in the case of wrongs committed by John since he had assumed the white cross, for which the usual respite allowed to crusaders, the term of their expedition, was to be granted him (52, 55, 56, 57). The same rule was to apply to all cases of forests, wardships, and disputed guardianships of abbeys (53). Whatever the Charter enacted as due from the king to his subjects, the clergy as well as the laity were to observe towards their tenants¹ (60), a general principle of wide and salutary application. Lastly, twenty-five barons were to be elected by their peers guardians of the kingdom. Any four of these had power to hear a complaint against the crown, and to apply to the justiciary for redress; if they failed to obtain it, the twenty-five and the community of the realm received a general right of war against the royal castles, lands, and possessions, till they should esteem the wrong redressed; only saving the persons of the royal family, and with the reservation that the war should end when satisfaction had been secured. The barons might even receive or constrain an oath of allegiance to their authority in this matter. Provision was made for filling up vacancies in their number; and it was declared that the vote of a majority at any meeting should be valid. A clause, directly aimed at the Pope, stipulated that John should obtain no permission from any one to revoke or diminish these liberties, and should not use it, if it were already obtained (61).

¹ The principle of this is contained in the charter of Henry I., s. 2. "*Similiter et homines baronum meorum legitimâ et justâ relevacione relevabunt terras suas, de dominis suis.*" A. S. Laws, vol. i. p. 449. In its present

and more general form it was also included in the rough draught of the barons' demands. Statutes at Large, vol. i. p. 8. Probably, therefore, it was not inserted at the king's suggestion.

The Charter ended by declaring that the king freely remitted all men any ill-will that the late troubles might have caused; and that both contracting parties swore to observe the articles contracted in good faith, and without malicious intent (62, 63).

In a certain sense it may be thought that the patriotic regard of Englishmen has attached an undue value to *Magna Charta*. The statement of an old historian, that it was derived from the laws of Edward the Confessor and from the charter of Henry I., is mainly true. The principles of fixed dues and voluntary taxation were not only implied in the laws of William the Conqueror, but affirmed by the care which all our kings, even John, constantly took to procure the consent of the nobles and clergy to imposts. The right of the curia to decide matters of supreme national importance, the right of the large towns to assist in council are anterior to *Magna Charta*, and, had it been an isolated act, would have derived little confirmation from it. The reforms in justice which it enacts, where they are not statements of existing principles, are mostly matters of detail. The whole Charter bears the traces of confused and hasty compilation, its articles having evidently been written down as they occurred severally to the minds of the negotiators, and the whole being rather a bundle of protests against actual wrongs than a statement of abstract right. Nevertheless, the instinct of a nation is seldom far wrong in its gratitude. *Magna Charta* came at a time when the depression of the nobles, the power of the crown, and the servility of lawyers were tending to overlay the English constitution with state maxims from the rotten imperialism of Rome in its decadence. *Magna Charta* renewed the habit of self-government, which the difficulties of a conquest, the supineness of a privileged

order, and the embarrassment of foreign dominion, had in great measure suspended for a century and a half. It gave a visible standard, around which freemen might rally with a sense of right; a something which could not be explained away like a custom or a tradition. Where it innovated on old precedent its changes were commonly for the better; and the spirit of fair dealing that animates its provisions for the lower orders fitted it to be a national memory. Its gravest, perhaps its only real defect, was the provision which allowed a council of barons to wage war upon the crown. Civil war is not so light a matter that it ought to be incorporated in our laws as a constitutional remedy. Judged merely by the event, the provision failed of its intended effect, and was rescinded in a year, the right of rebellion under bad government being, in fact, at once indefeasible and better not expressed. The peculiar causes of this mistake, the sense of John's faithlessness, and the knowledge that the pope would support him, are sufficiently obvious, but these evils were in no wise obviated by the enactment. Probably since the feeling of the times would scarcely have acquiesced in the king's deposition or death, it would have been better to insist on the surrender of the royal castles, and the dismissal of all mercenaries without the interval of the smallest delay. Yet it was perhaps as well for the future of English liberty that its first beginnings were contested sword in hand.

CHAPTER IV.

THE BARONS' WAR.

PREPARATIONS FOR CIVIL WAR. SIEGE OF ROCHESTER. TRIUMPH OF THE ROYAL FORCES. RAVAGE OF THE COUNTRY AND DESPERATE POSITION OF THE BARONS. FRENCH AID IMploRED AND PROMISED. LOUIS AND GUALO LAND IN ENGLAND. DOUBTFUL ISSUE OF THE CAMPAIGN, AND SUSPICION OF FRENCH TREACHERY. ILLNESS, DEATH, AND LAST WILL OF JOHN. HIS CHARACTER. CORONATION OF PRINCE HENRY. BATTLE OF LINCOLN. NAVAL VICTORY OFF SANDWICH. TREATY WITH LOUIS. GUALO'S CONDUCT.

THE evidence of the royal writs that were issued in the weeks succeeding the interview at Runnymede would seem to prove that John for the time felt himself overpowered, and put on the semblance at least of unconditional submission.¹ Several of the castles he garrisoned were committed to claimants of the barons' party; some of the foreign mercenaries were sent back;² prisoners were set at liberty; and commissioners were sent into every county to inquire into the abuses of the forest laws.³ The Charter itself was sent down into the

¹ Thus Hertford was given back to Robert Fitz-Walter; Rockingham was entrusted to William Mauduit; and York handed over to William Mowbray till his right to it should be decided. Rot. Litt. Pat., pp. 143-4. Wendover, iii. p. 297. Even the Tower of London, to which Geoffrey of Mandeville advanced a claim of wardenship, was sequestered in the

primate's hands, and Rochester, which the see of Canterbury claimed, was given up to it. Wendover, iii. p. 319. Contin. Hoveden, Bouquet, xviii. p. 175.

² Hugh de Boves is ordered to send away the (foreign?) soldiers at Dover to their own country. Rot. Litt. Pat., p. 144.

³ Rot. Litt. Pat., 145.

country, and sworn to at hundred-motes and town-motes under order from the king. Nevertheless, the barons did not feel safe. It had been a mistake in their policy to conclude, as it were, a private peace at Runnymede, in which the baronage of the north had taken no part, so that some of its members, professing not to accept it, retired behind the Humber and continued to waste the lands of the king, and doubtless to settle any private feuds that were in hand.¹ Generally every man, apprehending that troubles were imminent, put his castle in a state of defence. The main body of the lords, who saw the importance of keeping their forces together, and heard that a plan was on foot for seizing London to the king's use as soon as they should leave it, could devise no better expedient than to proclaim a tournament for the 6th of July, and invite their partisans to attend and break a lance for the prize of a bear, which a patriotic lady offered. There can be little doubt that this military occupation of the capital, and the warlike preparations everywhere, gave a colour of justice to the king's meditated protests, and moderate men might well be dismayed at finding that some of the lords were capturing or driving away the royal sheriffs and taking all jurisdiction into their own hands. Between a tyrant, who only oppressed the powerful, and lords, who were an universal danger, the people might well incline to the cause of the former. Stephen Langton saw the danger imminent, and tried ineffectually to mediate. He procured the calling of a council at Oxford (August 17), with no better result than that the assembled prelates and barons heard a royal letter read out, in which John recalled his promise to attend, on the ground that his

¹ Cont. Hoveden, Bouquet, xviii. p. 175.

loyal efforts to observe the Charter had not been met frankly, and that he apprehended violence. It was resolved that the bishops should use their influence with the crown for another council. But the king had procured letters from the pòpe solemnly annulling the Charter, and commissioning the bishop of Winchester, the abbot of Reading, and Pandulph, to excommunicate all who should trouble the peace of the kingdom, and prevent the king, who had taken the cross, from proceeding to wage the holy war in Palestine. The sentence was duly published at Staines, the bishops not daring to suppress it; but the barons conceived themselves bound in orthodoxy to interpret it in the manner most conformable with justice, and so to regard it as directed against the king himself. They proceeded quietly to divide England into districts, each of which was to be placed under one of themselves as justiciary and as general. John, on his part, remained about the southern coast, being probably not unpopular in the district of the Cinque Ports, whose privileges he had favoured, and collecting troops for war. When the term arrived on which the sentence of excommunication was to be definitively pronounced, the papal commissioners issued it, to preclude all disloyal interpretations, with the names of the most eminent partisans of the barons. But church censures were less regarded than ever after the kingdom's late abundant experience of them; and the barons contented themselves with appealing to the general council, which was then about to meet. The bishops and abbots, thinking themselves safer anywhere than in England, took the same excuse of the council for leaving the country. Stephen Langton, who could not well avoid attending it, before he went did a last service to the constitutional cause by entrusting his castle of Rochester to the barons, and taking their

deputies to the pope in his train. For these reasons, and because he had communicated with the lords, Pandulph followed him, and, in virtue of the legatine authority, suspended him from the primacy. The great man—true citizen and loyal churchman—bowed reverently to his superior's sentence, and went on his way to Rome.

Both sides in England were now preparing for war. The barons, whom the veteran William d'Albiny had at last joined, gave him the command of Rochester, with the view of detaining the king in case he should march upon London. They themselves besieged Oxford and Northampton. It was ominous of coming events that they had now procured French engineers. In fact, they were in treaty with the dauphin Louis, to come over and take the kingdom. This desperate expedient was no doubt caused by their growing unpopularity, many of the barons, who for a time had held with them, now joining the king, on the ground that he had been harshly and unfairly dealt with. Moreover, as Philip Augustus could not openly take part against the pope, John was able to bring over a host of foreign mercenaries, Gascons, Flemings, and Bretons, whom the usual promises of spoil attracted to his standard.¹ In spite of a fortunate storm which wrecked many of their transports off Yarmouth, these men enabled the king to take the field with overpowering force, and send detachments to raise the sieges of the two towns invested, while he him-

¹ It was said that Hugh de Boves, who fortunately perished in the storm, had been promised the counties of Norfolk and Suffolk. Wendover, iii. p. 333. The chronicle of Lanercost (p. 16) declares that the king, following the suggestion of some

unknown counsellor, had resolved to destroy the whole English nation and give over the country to barbarians. He probably intended to replace all the native barons who had opposed him, by foreign dependants.

self sate down before Rochester (October 13). In a first attempt to burn the bridge over the Medway, that no relief might reach the town from London, the royal troops were repulsed with some loss by Robert Fitz-Walter. The barons even drew out their forces with the intention of raising the siege; but when John accepted the challenge, and prepared to give battle, their hearts failed them at the sight of his overwhelmingly numerous infantry, and they withdrew ingloriously.¹ Their only hope now lay in France. John, with characteristic craft, sent a forged letter in their name to Philip Augustus, purporting to declare that they were now reconciled to the king. But the device failed, Saher de Quincy, the barons' envoy, offering to pledge his head that the news was false,² and seven thousand men-at-arms were sent over to the Suffolk coast in anticipation of the dauphin's coming. But the castle of Rochester could not be saved, and its gallant defence only served to protract the misery of Kent, which John's troops ravaged, and the sufferings of the episcopal city, where the soldiers of the pope's vassal stabled their horses and celebrated wild orgies in the cathedral. After two months William d'Albini was starved into a surrender at discretion (December 6). The tyrant would have put all his captives to death, had not Savary de Mauléon declared that, if such an occasion for reprisals were given, neither he nor any of his men would dare to serve any longer. Accordingly, the barons and gentlemen were imprisoned,³ the men-at-arms ransomed

¹ Wendover tells an absurd story that the barons turned back because the east wind was unpleasant, and returned to dice and drink in London (iii. p. 333). I have followed the

Continuator of Hoveden.

² Coggeshale, Bouquet, xviii. p. 110.

³ It seems, however, that they were hardly treated in prison. An-

to the profit of the royal soldiery, and John only vented his anger by hanging a few of the cross-bowmen who had plied their shafts against his troops with fatal efficiency.

If the barons are indeed guilty, as their indignant partisans declared, of having dined and drunk away the time for raising the siege of Rochester, they were destined to pay a heavy penalty for their supineness. John was now master of the position, and leaving behind a strong body of men, under the earl of Salisbury and Savary de Mauléon and Faukes de Breauté, to watch London and the eastern counties, he himself marched inland to Northampton and Nottingham. Although he met with little or no opposition, the castellans generally deserting the castles confided to them, which were probably not capable of standing a siege, the king ravaged the country mercilessly, carrying off the cattle and burning the very hedges. The mercenaries he had left behind did their work as ruthlessly. Christmas-day was marked by the plunder of Tilly church; Ely monastery, which had been the refuge of many noble women, was stormed by a party who crossed the frozen marshes, and neither sex nor age spared, the men of Walter Buc, a Flemish mercenary, being specially infamous by their cruelties, while the earl of Salisbury did his best to rescue his country-women. Every day brought the news of a fresh disaster to the constitutional party; de Clare's castle of Tonbridge, William d'Albini's of Belvoir, John de Lacy's of Darlington, fell

nal. Ecc. Roff. Anglia Sacra, i. p. 347. The chronicle of Lanercost, p. 20, tells an amusing story, founded on the primary misconception that John actually starved them, of a knight, one of the Basset family, who having found church penances be-

yond his strength, now supported life, for three years ! on a single hard egg a-day, which his wife fined in 100s. for leave to give him. One Reginald Basset was actually among John's prisoners during this war. Rot. Litt. Pat., p. 160.

successively; the very Lowlands of Scotland were ravaged, the king firing Berwick with his own hand; and in March (1216) John was able to turn southwards and renew the siege of Colchester, from which the barons, by an isolated act of vigour, had driven Savary de Mauléon. In a few days Colchester surrendered, it was said, through the treachery of the French soldiers in the garrison, who stipulated a safe-conduct for themselves, while John, violating the terms given by his general, would not even permit the English to ransom themselves, but committed them to prison. The barons were left with no town but London, and no ally but Louis. Their representatives at Rome had been dismissed angrily and contemptuously by Innocent, who had lately written (Dec. 14) telling them that they were worse than Saracens, and excommunicating the foremost among them by name. But the greatest blow of all was the confirmation of Stephen Langton's suspension. The primate, it is said, lost heart when he found himself in the pope's presence, and made no defence of his conduct, only pleading to be restored.¹ It is at least equally certain that he made no retraction and promised no change. Even when his sentence was provisionally removed, three months later, he was not allowed to enter England till peace should be re-established.

But the pope had overestimated his power. When the papal commissioners issued the bull of special excommunication, with the names of later and smaller offenders added, the constitutional party in London, nobles, clergy, and citizens, quietly resolved to dis-

¹ Wendover, iii. p. 345. Cf. Contin. Hoveden, Bouquet, xviii. p. 179, where it is said that he took scarcely any part in the council, knowing

himself to be out of favour, and the pope's refusal to hear the barons' envoys is noted at the same time.

regard it on the ground that it had been obtained under false pretences. Service went on, bells were tolled, and lauds chanted as usual. A second sentence, confirming the first anathema and extending it to some French recruits who had lately come over, was set aside as calmly as the first. In fact, Innocent's guilty policy, though, in charity, we may well believe that he did not know the measure of his vassal's crimes, had committed him to the support of a government based on the worst horrors of war. John's soldiers had spread over the rich land they came to subdue, and where war had been almost unknown for sixty years, searching houses, churches, the very graves, for spoil. The priest was struck down at the altar that his vestments and chalice might be taken; soldiers and rich men were tortured with every refinement of ingenious devilry till they gave up their wealth. Houses were burned down, parks and vivaries ruined, orchards desolated; it seemed to be the king's object to make the land uninhabitable. But this policy overreached itself. Men who fought with halters round their necks, and who could not hope for John's mercy or trust his faith, might be exterminated, but could not be subdued. While the king was animating his troops, by liberal promises, to attack London, its defenders threw open the gates and prepared to give battle if an enemy appeared. Savary de Mauléon, having attempted to surprise the city, was beaten back and desperately wounded. The king's ships were defeated in the Thames. Presently it became apparent that every place which was not garrisoned for the king was hostile to him. The barons' partisans retorted rapine on their enemies; the Yorkshire-men invested York and compelled its defenders to purchase a brief truce.

But the country's real chance of salvation lay in

France. The English barons had so repeatedly refused to follow their king into Normandy or Poitou, and the general relations of the country had been so pacific elsewhere since the death of Richard, that the native forces generally were a mere militia, unequal in the field to John's foreign veterans, and incapable of carrying on a siege successfully. The king had numbers, discipline, and generalship on his side, and held the strong places of the country. It was felt that the arrival of Louis would not only be a reinforcement to the barons, but would draw away many of John's followers, who would not dare to fight against their native lord. Disgraceful as it might seem to seek the aid of foreigners, and of Frenchmen, it was really only resorting to the same desperate expedient the king had tried from the first, and England under a foreign prince would have better guarantees for liberty than England under a foreign army. Philip Augustus well understood that the barons only resorted to him in the last extremity, and offered his son nothing but a constitutional crown. When he finally resolved to let the dauphin, accept the proffered crown, and go over to assist the insurgents in the spring of 1216, it was not till they were reduced to the last extremity, and he took twenty-four hostages, for their good faith, from the first families of the kingdom.¹ Then he allowed his son to engage, at all hazards, in the expedition. The envoys whom John sent to protest were not even allowed a hearing. The pope's legate, Gualo, could not be dismissed thus summarily. But he was told, in effect, that the king could not interfere with the

¹ Wendover, iii. p. 360. Cogges-
hale only mentions the earls of Glou-
cester and Hereford (Bouquet, xviii.

p. 110), and of these the former at
least did not remain in France.

right of a vassal to wage foreign war for his own advantage; that John had forfeited the kingdom by repeated misdeeds; and that the privilege of a crusader could not shelter one who was already at war with Louis before he assumed the cross. Especially it was laid down, as a universal principle of law, that monarchy was a trust, not a property; and that, although John might divest himself of his crown, he could not transfer it to any one without the consent of his barons, whose rights might suffer from the transaction. Gualo could not even obtain the promise of a safe-conduct into England, the king declaring that he could only guarantee his safety on land, and would not be responsible if he were taken at sea by the dauphin's partisans.¹ The last, and unhappily the usual, threat of excommunication was then denounced against Louis if he should enter England, and against Philip if he should suffer him to do so. Next day (April 26) father and son arranged the details of the expedition, and Louis set out for England with all haste, that he might arrive there before the legate. In sign of filial respect to the pope, he, however, sent envoys to Rome to justify his conduct.

The French preparations had been some time in course, and Louis, in less than a month, was able to disembark at Stonar in Thanet (May 22), under convoy of six hundred ships and eighty transports. His arrival at once turned the balance. John, who had been waiting at Folkestone and Canterbury² to oppose the disembarkation, when he found that it was

¹ Wendover, iii. pp. 365-367.

² Wendover says (iii. p. 368), "Erat tunc rex Johannes apud Doveram cum exercitu suo." But the

Itinerary shows that he was at Folkestone on the 20th, when he left for Canterbury, and stayed there two days.

effected, lost heart, and, distrusting the fidelity of his troops, marched rapidly westwards, not halting till he came to Winchester, and presently, having set fire to the royal city,¹ as he heard that Louis was advancing (July 21), fell still further back upon Corfe and Gloucester. There Gualo met him, having at last effected a passage, and the king and legate enjoyed the gloomy satisfaction of issuing a fresh sentence of excommunication against Louis and all his adherents, especially master Simon Langton, the primate's worthy brother, and Gervase, chancellor of London. But no sentences could arrest the progress of the enemy. Louis had marched to London, reducing Rochester by the way, and was received rapturously by the nobles and citizens. He swore on the gospels to give them good laws and restore them their confiscated lands; and not only the first barons confederated proffered him homage and fealty, but several of John's staunchest adherents, the earl of Salisbury, the earl Warren, and the earl of Arundel, were emboldened by the opportune death of Innocent to espouse the national cause against king and Pope.² All the mercenaries, except a few of the Poitevins, who might be called John's subjects, either joined Louis or went back to their own country. In the course of three months the

¹ "Inflammatâ prius urbe per quatuor partes." Coggeshale, Bouquet, xviii. p. 111.

² Coggeshale says almost all the earls and barons who had hitherto been on John's side now went over. The Continuator of Hoveden says, of some of them at least, that they did it more for fear of Louis than for his love. Bouquet, xviii. pp. 112, 180. Wendover says they did it

because they now thought it safe to do so (iii. p. 369); and the Chronicle of Lanercost (p. 19) declares they did it "plus doli quam dilectionis intuitu." Probably they went over in a hasty impulse of disgust at John's conduct, and were soon discontented with their reception and alarmed for their prospects if Louis should triumph.

whole of the north, south, and west of England, except a few castles, was held by the troops of the confederates. The chief exceptions were Barnard Castle and one or two minor places in Northumbria, the castle of Lincoln, Newark and Nottingham in the midland districts, Windsor and Dover in the south. In Dover, left almost soldierless by John's flight, Hubert de Burgh, who had thrown himself in almost as a forlorn hope, displayed a heroism worthy of a better master, and inflicted such loss upon the assailants that Louis threatened to hang the whole garrison, and invested the hill with a rigorous blockade. He might well calculate on success, when Alexander of Scotland was able to march, with a large army, through the whole length of England, and do homage to his new suzerain at Canterbury.¹ Yet it cannot be said that John was careless of his fortunes. He made the country on the borders of Wales a desert, and marched rapidly across England, raising the siege of Windsor, where the barons broke off to pursue him, and terrifying the besiegers of Lincoln castle, the Scotch king, and the Norman nobles, who did not dare to meet him in the field (Sept. 28). The tide of popular opinion was already turning not so much in favour of John as against Louis. From the first, a certain William of Coningham,² at the head of a thousand archers, had held the woods of Sussex against the French, animated, it would seem, by mere hatred of foreigners. It was now generally remarked, with suspicion, that the French prince committed the castles he took to the care of his own countrymen. It was said that the count of Nevers had taken bribes from

¹ At Canterbury. Coggeshale, Bouquet, xviii. p. 112. At Dover. Wendover, iii. p. 382. ² Called Wilkin in the *Annales de Dunstapliâ*, p. 46.

John to give false counsel. It was said, and confidently believed, that the viscount De Melun, on his death-bed, had confessed to a secret agreement between Louis and sixteen French barons to expel all their own allies as traitors to their natural king, and divide the spoil among themselves. Men began to ask whether it were not possible to make terms with the sovereign, who had no foreign interest, and, at the moment, scarcely any foreign troops; they began to remember, with sorrow, that they were excommunicated. Forty barons at last agreed to send and ask the king if he would suffer them to renew their allegiance.¹

But the letters found the tyrant on his death-bed. As soon as he had effected the object of relieving Lincoln and learned that the barons were not in pursuit of him, John decided to march southwards again. In passing over the Wash, between the Cross-keys and the Foss-dike, he marched too near the sea at a time when the tide was still high, and lost many of his sumpter-mules and household retinue, with his jewels, including the crown, and a shrine containing relics which he especially prized. At the abbey of Swineshead, where he passed the night, he is said, by the more credible account, to have eaten peaches in excess; vexation, fatigue, and the surfeit bringing on a dysentery. Later legends declared that a monk, who heard him boast he would raise the price of the loaf from a half-penny to a shilling, devoted himself for his country and poisoned the fruit he presented, eating of it himself, to inspire confidence, and dying.² The illness, however caused, did not

¹ Wendover, iii. p. 386.

² From Mr. Thompson's summary of the evidence about John's death (Essay on Magna Charta, pp. 540-

544) it appears that Wendover, followed by Paris, and Matthew of Westminster, Coggeshale, the Annals of Dunstable, Margan, Winchester,

hinder John from proceeding, the next day, to Sleaford, where he learned that Dover still held out and had obtained a truce till Easter, but was probably bound to surrender if it were not relieved by that date. The news was bad medicine for a sick spirit, and the king's next stage, to Newark, was his last. His last acts were to write a letter to pope Honorius (Oct. 15), recommending his young son to him, and to dictate a short will by which he constituted what may be called a council of regency, with the legate Gualo at its head. But its provisions are chiefly the work of a craven conscience, desiring to purchase pardon of heaven by alms to the poor, and to religious houses, by "aid to the land of Jerusalem," and "by making satisfaction to God and holy Church for the damage and injury done them." The sacrilege wrought in Croyland monastery, where Savary de Mauléon's men had carried off spoil and captives in mid-mass not three weeks before, may perhaps have risen up accusingly before the king's fevered fancy. On whom the furies should wait, if not on John, may indeed well be questioned. We seem to trace his gradual depravation in his history. The fair boy, his father's darling, who lets his courtiers pull the beards of his Irish lords, in the very wanton-

Waverley and Burton, the *Chronicles of Melrose*, *Croyland*, and *Lanercost*, and the histories of *Trivet* and *Rudborne* either refer the illness to natural causes or make no mention of poisoning. The legend that he was poisoned is told first at length in *Hemingburgh's history*, written in the fourteenth century, though its existence is noticed in the *Chronicle of Peterborough*, which perhaps belongs to the thirteenth century, and

by *Wikes*, whose history ends in 1307. The story is further told in different ways, and often with circumstances that can be proved inaccurate or impossible. Its two most dramatic forms are in *Hemingburgh* and *Higden*, and are quite different from one another. The first finds the motive of the king's murder in his intention of debauching the abbot of *Swineshead's* sister; the second, in his threat to raise the price of bread.

ness of youthful arrogance,¹ and bandies rough jokes with Giraldus Cambrensis,² grows up reckless of all self-restraint, of all honourable sentiment, false to his father, false to his brother, false to his associates in treason, casting off the wife who has made his fortunes, slaying the nephew whom he has sworn to spare. He has all the lower talent of his family, is a pleasant boon companion, fond of books and of learned men,³ irresistible among women. A few friends hold by him to the last, with more of what seems personal regard than Edward II. or Richard II. conciliated. He has partisans in London at the time of his deepest humiliation,⁴ and is welcomed rapturously in Lynne a few days before his death.⁵ The Cinque Ports seem to have been steadily faithful to his interests. It is evident, that, while his clergy and his nobles hated him, a portion of the towns were with him, either grateful for past favours or liking his enemies less. The loss of Normandy was chiefly due to his quarrel with his English subjects; he held England against the pope with singular success; and his last campaigns prove that he had organized his tyranny till he was an overmatch for half the realm, and could still do something when France had succoured the rebellion. Yet, allowing all this, which has perhaps been too often overlooked, it may be doubted if it be not an aggravation of the infamy that clings to John's name. He

¹ Gir. Camb., Hib. Exp., lib. ii. c. 35.

² Gir. Camb., de Rebus a se gestis, lib. ii. c. 24. Cf. the Preface by Professor Brewer, p. liii.

³ Pliny was one book by which he seems to have set store. Rot. Litt. Claus., p. 108. He offered Giraldus Cambrensis two bishoprics

in Ireland and one in Wales. De Rebus a se gestis, lib. ii. c. 13, 24. John de Grey, another favourite, was a witty and learned man.

⁴ See p. 67, note 1.

⁵ "Ab urbanis cum gaudio susceptus est et magnis donariis honoratus." Wendover, iii. p. 384.

favoured the cities not in the interest of freedom, but to gain money by the sale of charters or to set class against class. His power was based on the systematic employment of foreign mercenaries; he tortured to extort wealth, and murdered freely when his avarice was disappointed. His great struggle against Innocent began in the attempt to usurp the rights of a corporate body, and was carried on by confiscations and violence. Lastly, like all voluptuaries, John perpetually broke down at the critical moment of his fortunes. He scoffed at religion, and was cowed by a strolling prophet's utterances.¹ Bearing to be excommunicated for years, giving churches freely to be plundered, he yet attached a superstitious reverence to the relics he carried with him.² Perhaps the best summary of his life is the simple record of the great facts of his reign, that he lost Normandy, that he became the pope's vassal, and that he died fighting against Magna Charta. Never, probably, was there an English king who would more cordially have endorsed the Roman tyrant's wish: "When I am dead let the earth be consumed in fire;" never one of whom the poet might have said with greater truth, that "he wearied God."

The death of John, by which the crown devolved upon a boy in his tenth year, appeared at first to incline the balance in favour of Louis. Disheartened by the difficulties of his enterprise, and especially by the many castles to be reduced, and distrusting the fidelity of his English partisans, he had lately fallen back upon

¹ Giraldus Cambrensis notices his impiety as early as the visit to Ireland, 1185. "Deo et ecclesiæ suæ nullum in partibus honorem facere disponebat." *De Rebus a se gestis*, lib. ii. c. 10. Even at the time of his accession, when it was his object

to conciliate the clergy, he neglected to communicate at Easter or on his coronation day. *Vita S. Hugonis*, p. 293.

² Coggeshale, Bouquet, xviii. p. 112.

the southern coast, to keep his communications with France and the road of flight clear. He now advanced again upon London, and succeeded in occupying the Tower,¹ which was held in deposit by a mixed garrison, and which its officers by a breach of trust gave up to him. The seizure at a later period enabled him to desert his enterprise upon honourable terms; but for the moment the advantage of it was balanced by other circumstances. John's death, and the withdrawal of his army into the west, had left the road into the north clear; and the king of Scotland and the north country lords were now able to return to their homes, and either abandon the war or perhaps go over to the enemy. Above all, it soon appeared that a large part of the nation would prefer an English prince, under all disadvantages of birth and age, to a foreigner. The earl Marshal, as head of the royalist party, called together an informal assembly of adherents, and even of enemies, who it was thought might be won over. Presenting the young prince to them with the words, "Behold our king!" he observed that, even if they had fought against John, it would be unjust to make "the son bear the iniquity of the father;" let them rather cast out the stranger and free the land from its disgrace. An objection from the earl of Gloucester,² that they could not in honour renounce the homage they had sworn to a prince who had come over by invitation, was met by the answer, that Louis by his treach-

¹ "Cepitque terram Londoniensem," ought undoubtedly to be "turrem." Contin. Hoveden, Bouquet, xviii. p. 181.

² This must have been Gilbert de Clare, earl of Gloucester and Hertford, if Hemingburgh's authority for

the name has any value (vol. i. p. 258). He was not carried away by the general feeling, and was afterwards made prisoner at the fair of Lincoln. Hypodigma Neustriæ, p. 463. Trivet, p. 201.

ery had, in fact, freed his followers from their engagements; and that, if he were allowed to conquer, he would reduce the whole people to shame and slavery. Men's minds probably did not need much exhortation, for a thrill now ran through the assembly; and all, as if with one voice, cried out, pointing to the royal boy, "Be it so; let him be king!" The day of the coronation was fixed for the feast of St. Simon and St. Jude (Oct. 28), and it took place at Gloucester. In the absence of the primate no one dared to consecrate the new king; but the legate, and the bishop of Winchester, and the primate of Ireland, pronounced an irregular benediction. In the utter want of treasure, the regalia being lost, no crown could be procured, but a simple circlet of gold was substituted, and an order issued that, for a month to come, all who acknowledged Henry's title should wear a garland on their heads.¹ The usual prefatory baths to protect the liberties of the Church and of the realm were taken on this occasion before Jocelyn, bishop of Bath. The degrading oath of fealty to the pope was renewed before his legate—the need of papal support overpowering all considerations of national honour in the royalists. In fact, a synod was presently held at Bristol, in which the clergy, under Gualo's guidance, pronounced unanimously for their young king; and the sentences of excommunication, which were now thundered in every church on every Sunday against Louis and his adherents, did much to rouse the courage of Henry's followers. The earl Marshal, at once guardian and regent, wielded almost sovereign power, and, fortunately, pursued a policy of conciliation. Magna Charta

¹ Wikes, Gale, ii. p. 38.

was re-enacted with some improvements in matters of detail, but, unfortunately, with the reservation that some of the most important points—the guarantees against arbitrary taxation, the right of free travel in the country, and some abolitions of vexatious customs—were only confirmed provisionally till a council could meet and debate on their expediency. A better sign was that, by another instrument, the charter was extended to Ireland.¹ Letters were sent to the nobles, and the seneschals of castles everywhere, promising to confirm them in their possessions and offices, without respect to the part they had lately taken, if they would only embrace the king's side. One letter to Gilbert de l'Aigle suggests, with curious casuistry, that he shall at once surrender his castle of Pevensey to Henry's officers, that he may not be called upon by Louis, in performance of the homage sworn, to admit French troops into it.² The respect for the letter of a covenant, and the disregard for its spirit, are singularly characteristic of mediæval England.

It is some evidence of John's real ability that his death inflicted such severe loss on his party, in spite of their hearty union among themselves and the leadership of such men as the earl Marshal and Hubert de Burg. Hertford, Ely, and Lincoln had already fallen into Louis's hands, before Christmas, when the regent agreed to purchase a three weeks' truce by the surrender of Berkhamstead and Hedingham. Colchester, Norwich, and Oxford were not thought too great a price for a prolongation of the armistice till Easter.³ Louis profited by the opportunity to visit France and

¹ Parry's *Parliaments*, p. 24.

² *Royal Letters*, i. p. 2.

³ *Contin. Hoveden, Bouquet*, xviii. p. 182.

recruit his forces. As the great lords gradually fell away from him, and only those remained who had offended beyond hope of pardon, or who had little to lose if the country were resettled; he abused his position as master of the whole east of England by committing all his conquests to foreign soldiers. His opponents were as unscrupulous as himself; and, at the instigation of the legate, besieged and demolished several of the hostile strongholds during the armistice. Even sworn crusaders were allowed to exchange their vows of warfare in Palestine, for the easier task of freeing England from the alien; and the cross was generally worn as if in war against the infidel.¹ When Louis returned, about mid-Lent, he found the war concentrated around Mount-Sorel, where the royalist army lay, and Lincoln, where the barons were in the town, and invested the castle, gallantly defended by the lady Nicola de Haye. A force from London raised the siege of Mount-Sorel, and Louis resumed operations against Dover, when he was recalled to London by the tidings of an overwhelming defeat. The earl Marshal had resolved on finishing the war by a final blow. He drew the garrisons out of all the midland castles, and marched at the head of a numerous and well-appointed army to raise the siege of Lincoln. Undervaluing his power, the barons resolved to proceed with their operations before the castle, and to reduce it before they gave battle. But their lines within the town did not enclose a postern-gate through which Faukes de Breauté and the whole English corps of cross-bow men found admittance into the castle. The effect of a storm of stones suddenly volleyed from the ramparts upon the

¹ Contin. Hoveden, Bouquet, xviii. p. 183.

narrow streets of the town was tremendous; horses and men fell confusedly in the streets; a vigorous charge from Faukes completed the general disorder; and before numbers could re-assert their superiority, the city gates were burst by the main army of the royalists. The battle speedily became a mere butchery; and the young count de Perche, refusing to surrender to any "English traitor," was among the slain. The number of prisoners was especially large, as the gate through which the fugitives fled would only allow one to pass at a time. Four earls, eleven barons, and three hundred knights are known to have been taken.¹ As the canons and town of Lincoln had sided against the king, churches and houses were plundered ruthlessly, and many women perished on the waters as they crowded precipitately into boats to escape the worst calamity of the weak. Seldom has so fruitful a victory been won with so little bloodshed as at this "fair of Lincoln" (May 19). Next day tidings came that the garrison of Mount-Sorel had evacuated it. Before long the English army invested London, and Louis, cooped up in the last stronghold he possessed, appeared to be little more than a prisoner with a city given him for bounds.

There was yet one chance of retrieving fortunes which were rather jeopardized than ruined, while Louis still counted many soldiers and so many adherents in England. A last appeal was made to the French nobility and no doubt secretly supported by the court. A new expedition was hastily prepared under the command of Robert de Courtenai,² a prince of the blood.

¹ The four earls were Winchester, Lincoln, Hereford, and Gloucester; and Robert Fitz-Walter was among the barons. Wendover, iv. pp. 23,

24; Trivet, p. 201; Hypodigma Neustriæ, p. 463.

² Armoricus, Bouquet, xvii. p. 111.

and with the aid of Eustace le Moine, an almost mythical hero of French maritime annals. A native of the Boulonnais, he had left the cloister to claim his family heritage on the death of his elder brothers, had risen to be seneschal of the count of Boulogne, and had quarrelled with his master in the critical period preceding the battle of Bouvines. As a renegade monk he was regarded with general horror; his frequent changes of allegiance discredited him in the eyes of estated gentlemen; and his piracies in the channel on English and Flemish ships made his name a byword and a terror to merchants.¹ Philip Augustus had lately warned the legate that he could not protect him against Eustace the monk. All the more was he qualified to conduct a tumultuary expedition like the present; and no other man probably could have taken the sea in a few days with eighty ships or more. Hubert de Burgh appreciated the importance of the crisis. He saw that if these reinforcements set foot in England, the siege of London would be raised, and the war recommence with fresh fury. Although his men-at-arms, with a few noble exceptions, refused to follow him, he quietly took the eucharist, left orders that if he were made prisoner they were to see him hanged sooner than surrender Dover, and put out to sea with thirty-six light ships hastily impressed. He came up with the y's fleet

¹ It is curious that the brother and uncle of Eustace were in John's hands as prisoners in 1214 and 1215, and that his daughter, who is spoken of as a hostage in the hands of the abbess of Wilton, was set free immediately after the passing of Magna Charta. Rot. Litt. Claus., i. p. 177; Rot. Litt. Pat., 126, 144. Apparently

also he owned land at Swaffham, in Feb. 1216. Rot. Claus., i. p. 248. For the statement of his quarrel with the count of Boulogne (1211), see Annal. de Dunstaplia, p. 34. M. Michel has collected the evidence about him in his valuable preface to the Roman d'Eustache le Moine.

within sight of Sandwich. Robert de Courtenai, despising the inferior force of his antagonist, sailed out from the line of the fleet to begin the attack. Seamanship and speed asserted their own as effectually here as nearly four hundred years later with the Armada. Almost in a moment the admiral's ship was boarded by the English mariners, the shrouds cut so that the sails flapped down upon the crew, and the helpless French cut down or stabbed with the sailors' knives. Eustace le Moine was dragged out of the hold and slain by Richard, a bastard son of king John, though the pirate offered to purchase his life. The rest of the fleet was then attacked and discomfited, the English, it is said, blinding the enemy by scattering quick-lime upon the wind; the cross-bows and bows did terrible service; and several galleys had been fitted with iron beaks, and now tore open the sides of the heavy French transports, and sank them instantaneously. Only fifteen ships of the enemy's whole fleet escaped, and ten of the great French nobles were among the prisoners (Aug. 24).

Between the "fair of Lincoln" and the victory off Sandwich there had been a truce which had given Louis breathing time, but which had also been employed by many of the barons in making terms with the crown. It was now evident that the French prince had little to hope from prosecuting the war, and the extreme eagerness of the council to see the soil of England free from the alien, and the sense of Louis's real strength in the occupation of the capital and the command of a still powerful army, combined to procure him honorable terms, though London was now invested by land and water. By the treaty of Lambeth (September 11) it was agreed that all the adherents of Louis should be

restored to their possessions: that the liberties of the city of London and all other corporate towns should be confirmed, and that all prisoners taken on either side since Louis set foot in England, should be set at liberty. Whatever instalments of their ransoms were not yet due or paid, were to be cancelled. All the barons and their adherents were to take the oath of homage to the young king, and to be released by Louis from the engagements taken to him. The French prince was to give up all the hostages in his hands, and all the towns garrisoned by his troops, and to force the brothers of Eustace le Moine to give up the isles they had occupied. The king of Scotland and the princes of Wales were to be allowed to profit by the conditions of the treaty on equal terms. Lastly, Louis was to receive payment of all sums due to him. It is doubtful what these debts were, and whether or not the crown guaranteed them by inserting this article in the treaty; but it is certain that payments were made to Louis out of the English treasury down to four years later,¹ amounting altogether, it would seem, to ten thousand marks, and given avowedly on account of this peace. Perhaps there was a secret article, which neither party wished to publish, and by which Louis stipulated for a bribe as the price of his departure. If so, the condition probably had some influence on the observance of the treaty, and the complaints made at a later period in France that the barons and cities had not been honourably dealt with, may be due to the mercenary covenant, which would naturally lead the regency to regard the treaty more or less as an imposture, and the money bargain between the two powers as the reality. By another not less

¹ Rot. Litt. Claus., i. pp. 376, 465. Chron. Mailros, Gale, i. p. 195.

disgraceful article Louis agreed to cede Normandy, and the other provinces wrested from England as soon as he should come to the throne. He probably never intended to observe this stipulation. But the mere fact that he made it proves the straits to which he was reduced, and suggests a suspicion that the good terms granted to his English supporters were dictated as much by the regent's wisdom as by any loyal insistence on the part of the French prince.

Before Louis left the kingdom he and all his followers were freed by the legate from the interdict, with the preliminary penance that the prince walked ungirded and barefoot from his own tent to that of the cardinal; and under the obligation that Louis himself should devote a tenth of his revenues for two years to the crusades, and his followers a twentieth.¹ The city of London, drained by the late war, made a last effort, and contributed a loan of five thousand pounds to facilitate the departure of its ally.² A letter of safe-conduct was even issued to secure his passage through the town in which for more than a year his will had been paramount. His lay partisans in England were speedily reconciled to the church and to the king, and entered again on their lands, though the prisoners of Lincoln were compelled, in violation of the treaty, to pay heavy ransoms for their liberty and court favour, and the prizes of office were reserved for those who had been steadily faithful or early penitent. After events showed that the offences of London in particular were still destined to be remembered. Alexander of Scotland and Llewellyn of Wales came and did homage, and

¹ Chron. Mailros, Gale, i. p. 195.
Paris, Hist. Major, p. 299.

(p. 204) says that he afterwards repaid £1000 "of his mere liberality."

² The Liber de Antiquis Legibus

were easily reconciled to the new government. The clergy, whom Gualo had refused to include in the treaty,¹ whose offence against church discipline had been aggravated by their position, were deprived of their benefices and compelled, unless they made terms with the legate, to implore pardon at Rome. As the crime of complicity in the rebellion had been easily incurred, and was now lightly imputed, the number of sufferers was enormous; the legate's retinue were enriched with fat benefices, and Gualo himself, it was said, drained for the time the whole wealth of the spirituality.² England could scarcely need a stronger lesson that the first duties of the citizen and of the priest were incompatible.

¹ Such seems to be the real import of the report made to Rome probably by Gualo's secretary. The legate, it appears, first objected to allowing four clergymen, of whom Simon Langton and Gervase de Horbragge were two, any benefit of the treaty. The commissioners agreed to exclude them, professedly without Louis's privity, with an understanding that the barons should subscribe to compensate them for their benefices. The legate then added that "*cæteros (? clericos) in prædictæ pacis forma noluit contineri*," unless it were approved at Rome. Then the French commissioners declared that negotiations were at an end. Nevertheless, the copy of the treaty sent is described as "*pax facta*." Bouquet, xix. pp. 635-637. In

the copy inserted in Rymer there appears an article expressly confirming the clergy in their property and apparently directed against this pretension of the legate's, and yet signed by him. Rymer, vol. i. part i. pp. 221, 222. As the legate's conduct afterwards certainly agreed best with his own statement to Honorius, there was probably a secret understanding that he signed the treaty with the reservation he had indicated.

² Scotland did not escape the papal commissioners on this occasion, and the church of Sant' Andrea at Vercelli was raised with the money wrung from its clergy. Robertson's Scotland under her Early Kings, ii. p. 8.

CHAPTER V.

HUBERT DE BURGH.

GUARDIANSHIP OF THE POPE. RE-ENACTMENT OF THE CHARTERS. CONSTITUTION AND FIRST MEASURES OF THE GOVERNMENT. ABUSES OF PAPAL VICE-ROYALTY. RIOT IN LONDON. RELATIONS WITH FRANCE. HENRY'S MAJORITY. INCREASED POWER OF THE CROWN. REVOLT AND BANISHMENT OF FAUKES DE BREAUTE. HIS STATEMENT OF GRIEVANCES. WAR IN FRANCE. RELATIONS OF THE ENGLISH CHURCH WITH ROME. ASCENDANCY OF HUBERT DE BURGH. CAMPAIGN IN FRANCE. FRESH DIFFICULTIES WITH ROME. FALL OF HUBERT DE BURGH. HIS CHARACTER.

BY John's will the pope had been left guardian to his young son, and Honorius readily accepted the trust which, perhaps in any case, must have devolved upon him as suzerain. In his first letter on the subject he is already answering proposals for an advantageous marriage for his ward.¹ His assistance and interest during the war had been unremitting, and had largely contributed to the success of the royal arms. Under these circumstances, and inasmuch as the queen dowager had returned to France, where she professed to be watching over the English interest, it is scarcely wonderful if Gualo's position overshadowed that of the regent and almost seemed to overshadow royalty itself. He even ventured to consult the pope, not many months

¹ Honorius, lib. i. epist. 167; Bouquet, xix. pp. 623, 624.

after order had been restored, on the propriety of appointing a colleague to the great earl Marshal, and recommended one of the worst men of the day, the earl of Chester, for the post.¹ Honorius fortunately discouraged the suggestion, though he would not withhold the legate from carrying it out if he should still think it advisable on further consideration. England therefore was, in theory at least, under a papal prefect, and its native rulers were probably regarded at Rome as possessing nothing more than a very wide right of remonstrance.

Among the first acts of the government was to hold a council at St. Paul's (Nov. 6, 1217), and publish the great charter in a new form. The spirit of compromise asserted itself in the revision now made, yet the result, if it fell short of what was achieved at first, yielded more than might have been looked for from the language held by Henry's ministers on his accession. Concerning scutage, it was decreed that it should be taken from henceforth, as had been the custom in the time of Henry II, the crown being thus in theory reduced to the levying of fixed dues, while the country was deprived of the germ of representative institutions. Free passage about the kingdom was allowed to merchants, while the silence concerning other persons virtually re-enacted the obligation of safe-conducts. Instead of the damnatory clause against John's alien partisans, an order was inserted that all castles built or rebuilt since the beginning of the war should be demolished. The position of widows was improved by a regulation which fixed their dower at a third

¹ Honorius, lib. i. epist. 493 ; Bouquet, xix. p. 532.

of the husband's lands.¹ The barons were conciliated by an enactment that no man should so alienate his lands as to deprive his lord of the service due from the fee, and the yet more dangerous abuse of transferring service to a religious foundation was forbidden, under penalty of the estate transferred. Regulations to limit the number of county and hundred courts to once a month and twice a year respectively read curiously at first sight, but, like a similar appointment about the view of frank-pledge (which was to take place at Michaelmas only), were intended to save trouble and expense to the freeman. A few minor clauses defined the new rights with greater precision, or provided for the further expediting of justice, as in the direction that assizes of last presentation should be taken directly before the royal justiciaries, without the need of previous application to the crown. Lastly, a separate forest charter was now first published. By this all enclosures that had been made since king Henry's death, unless they were on the royal demesne, were to be disforested. A general right of pannage in the royal woods was conceded, and freemen owning land within the forest bounds were henceforward to be suffered to plough their lands, to erect mills, and to make warrens, ponds, marl-pits, or ditches. Above all, no man for the time to come was "to lose life or limb for taking our venison," all other penalties being commuted for fine or imprisonment. Probably to a large number of Englishmen this simple concession of the

¹ The widow had probably a customary right to a third in parts of England before. Cf. Osbert de Clare, epist. 28, for the case of a man dying intestate, whose property is divided,

a third to the Church, a third to the widow, and a third to the children. So, too, a return in *Calend. Geneal.*, i. p. 160.

most common rights of humanity appeared at the time a more solid gain than the great charter itself.

Although the meeting, before it separated, granted Henry a fifteenth, the treasury was in such penury, from the exhaustion of the late war and the sums due to Louis and other crown creditors, that even the trifling due of a thousand marks could not be paid to the papal treasury.¹ In fact, the very existence of the government was precarious. The quarrel of the last two years still rankled in many hearts, and tournaments were held as the excuse of civil feud.² Naturally, too, there were questions of disputed possession, where lands had been given away or left lordless for a time, and the processes of forcible entry and ejectment soon grew to be undistinguishable from the right of private war, hitherto unknown in England except during Stephen's anarchy. It is curious to read letters in which the earl of Salisbury informs the justiciary, that he is no longer accountable for any misdeeds which the earl of Albemarle, his old ally, may commit, or in which terms of peace are gravely negotiated between two county magnates, as though they were sovereign princes.³ The king's writ had come to be of very doubtful value in the counties, and the king's justices were liable at any moment to see their decisions against a powerful lord overruled by private interest in the council.⁴ Not the least dangerous feature of the

¹ Royal Letters, vol. i. pp. 6, 7.

² Hoveden, Contin. Bouquet, xviii. p. 185.

³ Royal Letters, vol. i. pp. 19, 20. Compare the truce between the earl Marshal and the earl of Gloucester (Madox, Formulæ, no. 155), which must probably be referred to this

time.

⁴ Royal Letters, vol. i. pp. 20-22. Cf. Chron. de Lanercost, pp. 441, 442, for two letters from Faukes de Breauté, the second of which, as addressed to Pandulph, elect of Norwich, must be prior to his consecration, May, 1222.

times was that barons and bishops were seizing the royal castles and demense lands in their neighbourhood, under the pretence of guarding them during the minority. Newark castle was thus occupied by Robert de Gaugi and held against a royal army, only nominal submission being made.¹ It was some abatement of the cares of the government, when the weak and unprincipled Gualo was recalled (Nov. 30, 1218) and replaced by Pandulph, whose unscrupulous ambition was at least tempered by ability. By the death of the earl Marshal, a few months after this appointment (May, 1219), the legate was left incontestably the first man in the country. It was true Stephen Langton had returned and claimed authority over the legate as bishop elect of Norwich, but the claim was disallowed at Rome till such time as Pandulph should be consecrated, and the Italian, of course, postponed the ceremony indefinitely. Besides the legate and primate only two men exercised any steady influence on the conduct of government. Of these the justiciary Hubert de Burgh was, unfortunately, not a member of the old nobility,² and, in spite of his

¹ Wendover, vol. iv. pp. 35, 36.

² I can find no sufficient proof for the surmise accepted by Mr. Foss (Judges, vol. ii. p. 272), that Hubert de Burgh was descended from William, count of Mortain, temp. Hen. I. Count William, as Dugdale observes, (Baronage, i. p. 25), probably left no children, and the silence of a genealogist like William of Jumieuz seems to me in itself conclusive on this point. The taunt of Ela, countess of Salisbury, to Hubert's nephew, Reimund (Wendover, iv. 115, 116), that under no circumstances could she marry him, "*quia generis ejus nobilitas id fieri prohibebat*," would

have been absurd in the widow of a royal bastard to the legitimate descendant of William the Conqueror's nephew. It is true Hubert himself married John's divorced wife, Isabel, countess of Gloucester, after the death of her second husband (Paris, *Addimenta*, p. 152); but in this case, though the lady's lands had been committed to Hubert's custody (Rot. Claus., i. p. 319), a fact which may have had some influence on her actions, she was legally her own mistress. When he profited by his position to marry a Scotch princess it occasioned great jealousy, and was brought as a charge against him at

prestige as a soldier, had all the unpopularity of a new man. Peter des Roches, bishop of Winchester and the king's tutor, was a foreigner, detested for his maladministration in the late reign, who could not, had he desired it, have opposed the legate successfully. The chancellor, Richard de Marisco, was a worthless nominee of John's, charged with every possible crime, and practically superseded in his functions by a vice-chancellor.¹ The earl of Salisbury, the king's uncle, and the second earl Marshal had both taken part with the barons against the crown, and the former was for some time absent on the third crusade. Under these circumstances it was scarcely possible that Pandulph's ascendancy should be disputed; and it may be granted that for a time he used it on the whole, wisely and well, though perhaps imperiously. Under papal influence the court of France was induced to renew the existing truce (1219) for four years, and the defenceless southern provinces were thus respited from invasion. The differences with Scotland were arranged, and it was agreed that Alexander should marry one of Henry's sisters. When the elder of these, the princess Jane, was detained in France by the count De la Marche, whom the queen dowager had married "for the good of the realm,"² a series of papal interdicts forced the refractory stepfather to resign his valuable hostage. Neither were the home interests of the kingdom put out of sight. Care was taken that no fresh castles should be fortified, and two bulls were procured, one

his downfall. That his father was a royal employé and one of the first adventurers in Ireland quite accounts for Hubert's good introductions at court.

¹ Wendover, iv. pp. 68, 69. Royal Letters, vol. i. pp. 112, 113.

² Lettres des Rois; Champollion-Figeac, i. pp. 27, 28.

ordering the restitution of royal castles and demesne lands, the other enacting that no man should have the custody of more than two castles. The earl of Albe-marle, refusing to acknowledge this order, was put under ban and his two castles seized into the king's hands. The revenue was increased, and a grant of ten shillings the fee obtained from clergy and laity. The superstitious practice of the ordeal by fire and water was abolished, as forbidden by the Roman Church.¹ To crown all, the second year, so to speak, of Pandulph's regency was illustrated by two ceremonials of a magnificence never before witnessed, which might seem to symbolize the relations of Church and State. The first was the second coronation of the young king at Westminster, the pope holding that his first anointment over a divided people had been incomplete. The second was the translation of the bones of St. Thomas of Canterbury, from their first resting-place to a more honourable shrine. It was indeed a singular destiny that associated Pandulph and Langton in such a function.²

Nevertheless, with all allowance for the benefits of papal protection, which had indeed been fruitful of good since the death of John, the legate's position in the English government was felt by all associated with him to be intolerable. His claim of exemption from the primate's jurisdiction; his bestowal of an English benefice on his brother, the archdeacon of Thessalonica, an alien and a non-resident; the arrogant language of

¹ New Rymer, vol. i. part i. p. 154.

² See generally, for an account of Pandulph's government and downfall, the excellent preface of Professor

Shirley (Royal Letters, vol. i.), who has first called attention to the curious relations between the papacy and the crown at this period.

his communications with the ministers; his alliance with Peter des Roches against the English members of the council, were so many outrages upon national self-respect. A comparatively small matter brought on a political crisis. The seneschal of Poitou, Geoffrey Neville, resigned his difficult post in the autumn of 1219, and a question arose who should succeed him. The earl of Albemarle put forward claims which were seemingly first allowed, and then revoked on the strong objections of his enemy the earl of Salisbury, the result being that the discontented baron took the usual remedy of private war till a royal army reduced him to order. Then the dispute in the council turned on whether an English or a native noble should be appointed. A petition from the town of Niort against the viscount of Thouars, whose appointment had been rumoured, expresses strongly and clearly the great reasons the cities had to dread the government of a neighbour whose interests were certainly not their own, and who might, as in this case, be a deadly enemy.¹ Langton, De Burgh, and the council generally appear to have regarded this objection as fatal to the claims of any but an Englishman. On the other hand, Pandulph and Peter des Roches, the latter perhaps for private reasons, advocated the appointment of a native as the less expensive measure. The council carried the day, and an English justice itinerant, Philip de Ulecote, who had fallen under Pandulph's censure only a short time before, was made seneschal of the whole English dominion. But it was apparently felt that relations had been strained to the uttermost and

¹ Royal Letters, vol. i. pp. 126-128.

that one or other party in the government must give way. Accordingly, Stephen Langton repaired in person to Rome, where he represented the state of affairs to the pope, the abuses that had sprung up from the frequent bestowal of benefices on non-residents, and the incongruity of Pandulph's position, above the natural head of the English Church. Honorius, a mild well-meaning man, had not the vigour of character to break absolutely with a vicious policy and initiate a better. He could not bring himself to renounce John's fatal donation, or to cut off the resource of English preferment from the needy dependants of the curia. But he temporized and conceded a partial reform. The gross abuse of treating a grant of the presentation as a grant of the advowson was to be reformed, and every benefice was to revert, on the death of its actual occupant, to its original proprietor. More important still, during Langton's life no resident legate was again to be appointed in England.¹ It is difficult to resist the suspicion that this favour must have been obtained by money. But it was decisive. Pandulph yielded the contest, resigned his office, was inducted into his bishopric, and left the country under cover of an honourable and useless mission to Poitou. Henceforth it was understood that for all ordinary occasions the primate was the pope's representative in England.

Nevertheless, the situation was terribly precarious, and the legate's defeat, if it removed an obstacle from the government, removed a valuable ally. A good proof of the disrepute into which the central government had fallen was to be found in the refusal of the

¹ Wilkins' Concilia, vol. i. p. 584.

Yorkshire seneschals and bailiffs to pay the tallage granted by the baronage on the ground that their lords were absent from the shire-mote at which the king's writ was read out.¹ Although the earl of Albemarle had been reduced to submission by the prompt measures taken against him, it was known that a party of the nobility had been prepared to support him. Gradually, two great parties formed in the kingdom. At the head of the first or native were the primate, Hubert de Burgh, who was now married to the king of Scotland's sister, the earl of Salisbury, and the earl Marshal, who had literally been bought over with the hand of the princess Eleanor.² Never was alliance better planned. The earl was one of the ablest men of the day, and he carried with him the Bigod, Braose, Ferrars, and De Clare families, with their numerous connections.³ The foreign faction or opposition was naturally recruited from all who had more to gain by civil war or from a change of government than by pushing their interest quietly at court. Its chief by position, the earl of Chester, had been a stanch royalist, but having intrigued with Gualo for a share of the regency, had probably found himself in consequence out of favour with the government. Faukes de Breauté, who had an intermittent feud with the earl of Salisbury, and indeed, with his English neighbours generally, and Llewellyn of Wales, as the neighbour and natural

¹ Royal Letters, i. pp. 151, 152.

² Royal Letters, i. pp. 244, 245.

³ Of his five sisters one was married to Hugh Bigod, earl of Norfolk; one to Gilbert de Clare, earl of Gloucester; one to William de Ferrars, earl of Derby; and Eva to William de Braose, son of Reginald

de Braose, who was hanged for adultery, 1229. Dugdale's Baronage, i. p. 602. Mr. Blaauw has, I think, confounded mother and daughter in marrying this Eva to William de Cantilupe. Barons' War, p. 9. See Calend. Geneal., i. p. 227.

enemy of the earl Marshal, were the two other most powerful members. It added to the perplexities of the situation that Ranulph Blundevill and Faukes de Breauté had contributed more than most men to the success of the royal arms, and Faukes could never unlearn the habit of regarding and terming the English "traitors and rebels." Fortunately Faukes was not yet seriously discontented with the government, when, in 1222, a riot broke out in London which might easily have set the kingdom in a flame. The tenants of Westminster abbey were at that time accustomed to challenge the Londoners to wrestling matches; and at one of these the seneschal of the abbey contrived foul play against his opponents, and drove them back to London by the help of hired bullies. The citizens, under one Constantine, a man of substance and influence, sallied out tumultuously and destroyed a number of the abbey buildings. The fray had a dangerous complexion, as Constantine had formerly been a partisan of Louis, and now answered the justiciary haughtily that everything had been done by his warrant and that he would abide the consequences. Hubert de Burgh had already brought up troops to the Tower. He now sent Faukes by the river into the city, caused Constantine to be apprehended, and hanged him summarily with two other of the chief rioters, though he offered to fine in 15,000 marks for his life. The city was then occupied by an armed force, and all who could be convicted of a share in the late disorders were barbarously mutilated. Further, as the civic magistrates had proved unequal to maintain order they were deposed, and others appointed by the king's commission. Order was restored in London; and disproportionate as the punishment inflicted may seem to the offence, it can scarcely be doubted

that the matter was one of urgency; and it is noticeable that among the charges afterwards brought freely against Hubert de Burgh, his conduct on this occasion was never questioned by men in authority.¹

It soon became apparent, however, that Louis retained an interest in English affairs, and sympathized with the opposition. When he ascended the French throne, on his father's death, in the summer of the next year, (Aug. 1, 1223), an English embassy waited upon him to claim performance of his engagement to surrender Normandy. Louis answered that he was prepared to prove his superior right to that province at law, if Henry would plead before the proper tribunal—the French peers. Setting this consideration aside, he could not esteem himself bound by a treaty every article of which had been violated in England. The French partisans had been held to ransom; and a late instance in London showed that not only had the promised reforms not been maintained, but that the liberties of the realm were in greater jeopardy than ever.² The envoys retired, baffled and brow-beaten, from a mission in which the right of compact was unquestionably on their side, and to which, notwithstanding, they could scarcely have expected any better issue. Next year (1224), at Easter, the truce between the two countries expired. Forbidden by the pope to continue a projected expedition against the Albigenses, whose patron, count Raymond of Toulouse, had promised absolute submission, Louis turned his warlike energy against the English provinces. The viscount De Thouars ob-

¹ The feeling of the Londoners may be gleaned from the pithy notice in the Chronicle of the Mayors: "In this year Constantine Fitz-Athulf

was hanged, and without trial." *Liberté de Ant. Legibus*, p. 5.

² Wendover, iv. p. 86.

tained a year's truce on condition of transferring his allegiance, in case he were not reinforced from England within that term, and his neutrality left the Rochellers defenceless. Niort and St. Jean d'Angeli were easily reduced, and Rochelle was then invested. The senechal of the province was now Savari de Mauléon, a veteran whose services to the crown had been great and richly rewarded, but whose loyalty had not been without stain. The English account is that he neglected to put Rochelle in a proper state of defence. His own story was that he wrote in vain to the royal council for support—that the chests they sent him contained stones and chaff, not money—and that when he prepared to set sail himself for England, to urge his necessities, he was almost murdered by his English soldiers, who probably thought that he was deserting them.¹ All that is known certainly is, that the city was vigorously attacked and defended itself long enough to cover its honour. Then, in despair of succour, and under promise that its franchises should be preserved—the garrison also, as it was said, being bribed—the citizens gave up the key of the English territory. A military parade, a little further south, and a few unimportant surrenders of towns that consented to acknowledge Louis, but not to receive his garrisons, completed the prestige of the French campaign.* England retained nothing on the Continent except Bordeaux and Gascony.

The causes of the supineness of the English govern-

¹ Close Rolls, p. 552; Trivet, p. 213; Auct. Anon. S. Mart. Tur. Can., Bouquet, xviii. pp. 305, 307.

² Royal Letters, i. p. 237. The statement of Hugh de Vivonia,

that the French did not garrison any of their new acquisitions, must be understood only of Poitou, as they certainly garrisoned Rochelle. Nich. de Braiâ, Bouquet, xvii. p. 327.

ment lay in the difficulties by which it was beset at home. As the young king attained his sixteenth year, it became the interest of all parties to proclaim that his minority was at an end; the opposition probably hoping to overthrow Hubert de Burgh's influence, and the party in power not daring to be outbid. The pope's formal sanction to the change was applied for and obtained; though, it would seem, not waited for¹—the bishop of Winchester taking the initiative in the movement. But the ashes of old questions blazed up fiercely again. The first demand made upon Henry was reasonable and right, as, in fact, all parties agreed in urging it, and Stephen Langton was spokesman. They called upon the young king to renew, by his own free act, the great Charter of the liberties of the realm; the primate giving, as his strongest argument—one which would grate a little on the ears of later generations—that the king was bound to do it by his treaty with Louis. In spite of the experience of the last twenty years, there were not wanting men who were for the crown against the law; and William Briwere, taking upon himself to answer, observed that the Charter was invalid, as it had been extorted by violence. The primate's anger at this impudent speech of an upstart *employé* was so undisguised, that Henry hastily interfered, and declared that he had himself sworn to the

¹ In May, 1222, Honorius speaks of the king as a minor. Jan. 13, 1223, Henry promises to confirm the charter; and Jan. 30, 1223, the inquest into local liberties is ordered. It is not till April, 1223, that the pope's bull closing the minority was issued, (Royal Letters, i. p. 430), or till the end of that year that the pope's order to the nobles to give up

the castles in their custody, becomes the subject of a diplomatic correspondence. New Rymer, vol. i. part i. pp. 167, 168, 171. The Annals of Dunstaple, however (p. 83), refer the declaration of the king's majority to a council held in London after the war with Llewellyn and the arrival of the pope's bull.

Charter, and was prepared to keep his oath. Letters were accordingly sent to the viscounts of the different shires directing them to make inquiry, by juries of twelve sufficient men in every county, as to the franchises it had enjoyed in the time of Henry II, and report the result to the king. But the crown was not rewarded for its good faith by any surrender of their usurped power from the nobles. The bull of pope Honorius (May, 1220) had never yet been carried out;¹ and when a fresh one was issued, apparently at the instigation of Hubert de Burgh, ordering himself and his three great rivals, the bishop of Winchester, the earl of Chester, and Faukes de Breauté to surrender all their castles, the opposition of the baronage was so menacing that Henry was compelled to solicit leave for postponing the execution of the papal ordinance (1223). It was unnecessary, he said, to enforce obedience which all were prepared to yield, and to take the strong places of the kingdom from the charge of those who were best fitted to keep them. It was a curious commentary upon this correspondence that Llewellyn of Wales, the ally and friend of the two last-mentioned lords, had been employing the summer in an internecine war with the earl Marshal. Taking advantage of that nobleman's absence in Ireland, he had stormed two of his

¹ In 1221, W. Marshall the younger was urged by the king's council to give up the castle of Marlborough. He surrendered it conditionally that it should be restored to him if others did not follow his example. Corfe and Windsor castles were, however, recovered soon after by force from their governors. *Ann. de Dunstapliá*, p. 68. Compare a letter of somewhat earlier date from

Hugh de Vivoniá refusing to give up some lands to the rightful owner, unless he receive a provision to maintain Bristol castle. *Royal Letters*, i. p. 90. The matter seems to have been compromised by the crown buying Bristol of him, and making him seneschal of Poitou and Gascony (Dec. 1220). *Rot. Litt. Claus.*, p. 445.

castles, and beheaded all the prisoners. But earl William was not a man to be trifled with. He hurried back to England, obtained succours from the king, and letters forbidding all intercourse with the enemy, recovered his castles, beheading the Welsh garrison, and finally, having provoked Llewellyn by the ravage of his lands to accept battle, defeated him, with the slaughter or capture, it was said, of nine thousand men. A sentence of interdict from the pope found Llewellyn already discomfited and glad to be admitted to terms at the primate's discretion (Sept. 1223).¹

This success probably emboldened the government to take stronger measures for the recovery of the royal castles; and in the winter of this year matters came to a crisis—the barons, after an unsuccessful attempt to surprise the Tower of London,² sending envoys to Rome to state their case and win over the pope, while the earl of Chester held a separate court at Leicester in the midst of an armed rebellion. He had miscalculated his power. The nation was with the Crown and Stephen Langton; and the force that rallied round the king at Northampton (Dec. 25, 1223), was so large that the primate's threat of excommunication, if the earl did not surrender everything he held of the crown within twenty-four hours, carried with it much more than the usual church terrors. Ranulph quailed and gave way. There now only remained one man, Faukes de Breauté, whose audacity and power enabled him to head the discontented baronage against the man whom all the disorderly

¹ New Rymer, vol. i. part i. pp. 168-170; Wendover, iv. pp. 84, 85; Royal Letters, i. p. 212. The Welsh account is silent as to the provocation on Llewellyn's part, makes the

war an equal one, and represents the king and council as unable to adjust a peace. *Brut y Tywysogion*, pp. 313-315.

² Ann. de Dunstapliâ, p. 83.

marked as their worst enemy, the justiciary, Hubert de Burgh. The continuance of the French war probably emboldened him to attempt the daring outrage which brought matters to a crisis. It had long been his wont to remove his neighbours' landmark; and in the spring of 1224 he seized some property of John Marshal, a cousin of the earl's, imprisoned his bailiff, and told the servant who was sent to complain, that he cared not though thirty writs were issued against him; and that, if the English traitors wished for war, he would give them so much as should make the island too strait for them. Presently the royal judges came on circuit to Dunstaple, and no fewer than sixteen writs of novel disseisin were actually issued against Faukes. His brother, William de Breauté, retaliated by sending an armed force to seize the judges. Three of them having timely warning escaped; but one, Henry de Braybroke, was taken and carried prisoner to Bedford castle, where he was roughly handled and closely confined.

Faukes, for once, had miscalculated his power. The wife of the captive judge lost no time in appearing before the king at Northampton, and demanded with tears that her husband should be set free. Messengers were at once sent, backed by the "posse comitatus," to order the garrison of Bedford castle to throw the gates open, and received the insulting answer from William de Breauté, that he had never done homage to the king, and would take no orders except from his brother. Then the whole forces of the kingdom, already in motion for the French war, were summoned under the royal standard, and the primate pronounced the rebels excommunicated. But so well was the castle fortified, and so vigorously defended, that the royal troops were two months (June 16—Aug. 14) before

their engines could silence the artillery of the garrison, or effect a breach in the walls. When the place was at last stormed, the twenty-four knights who had defended it, and every one of whom was wounded, were hanged between their men-at-arms and servants, eighty-three in all, with only time given them to be reconciled to the Church. The excuse for this severity was, that no quarter had been given during the siege,¹ and little pity need be wasted on men, however gallant, who were trying to kindle a civil war in the interests of sheer anarchy. Their captive, Henry de Braybroke, was found unscathed. Faukes's apparent inaction during the critical weeks that decided his fate is remarkable. The sheriff of six counties, with six royal castles in his hands, with the ownership of two hundred ploughlands,² and the domains of the Rivers family in his wardship, with Llewellyn of Wales and the earl of Chester for allies, he might fairly have been expected to die hard. Evidently the nation had been roused; and he found himself suddenly companionless and a fugitive. His friends pleaded for him that he was quite innocent of his brother's act, and only anxious to explain himself to the Council; they urged his inaction during the siege as a proof of his innocence. It is doubtful whether he was taken prisoner, or whether, as seems more likely, he gave himself up at discretion, in the hope of obtaining terms.³ But his escort, it is said, took him out of the way to see his brother's body

¹ So Wendover says; but ten royalists taken at the third assault were found alive. *Ann. de Dunstapliâ*, p. 88.

² Rad. de Coggeshale, (*Bouquet*, xviii. p. 119), who also makes him sheriff of seven counties.

³ Wendover says he gave himself

up, iv. p. 98. The *Annals of Warverley* (p. 300) say that he was captured in Coventry church. A letter is extant from the bishop of Coventry saying that he had excommunicated Faukes and was going after him. *New Rymer*, vol. i. part i. p. 175.

on the gibbet. He professed, falsely, as it afterwards appeared, to resign everything he possessed into the king's hands,¹ and was then relieved from the church ban, and committed to prison in St. Paul's church, under the charge of the bishop of London. His wife now appeared before the king, and declared that she had been married to him without her consent, and prayed for a divorce. The question was referred to the primate; but she and her son were confirmed in the family possessions, the nobles and prelates, with singular moderation, preferring to tax themselves for the late campaign to indemnifying the treasury with the confiscated estates of an old family.² The numerous lands Faukes had seized wrongfully were gradually restored to their rightful owners. He himself, after some months' imprisonment, was sentenced to exile from the realm; his life being spared in remembrance of his old services to the crown, and on condition of his swearing to abjure the realm for ever. Before embarking, he assured the earl Warren, who escorted him to the shore, that he had been the tool of English nobles in all the troubles he had caused the country; and he attested the declaration with oaths and tears. His sentence was no slight one, for not only was he now a beggar comparatively, but his life was in danger in France, where the king had an old grudge against him; and he only saved himself by assuming the white cross. Thus protected he passed on at last to Rome.

In a memorial which some clever legist drew up for

¹ New Rymer, vol. i. part i. p. 175; Royal Letters, i. p. 313.

² The clergy granted the king half a mark from every carucate (hide) of demesne, and 2s. from every carucate of their tenants. (New Rymer, vol. i. part i. p. 175). The

barons seem to have given two marks the fee, (cf. Wendover, iv. p. 99, and Cont. Flor. Wig., ii. p. 188), and in return they obtained leave to levy a scutage of two marks on every fee for their own use. The fee was probably estimated at five carucates.

Faukes while he was intriguing abroad, the opposition statement of grievances against Hubert de Burgh's government is skilfully and, in all likelihood, unscrupulously given. The justiciary is charged with an insatiate love of power, and constant machinations against all the nobles who were not of his own party. In this spirit, it is said, he accused the bishop of Winchester, who had gone on a pilgrimage to St. James's, with intriguing to give up Eleanor of Brittany to the French king, and forced the pious prelate to surrender all his castles to the king, though Henry was still a minor. Later on he exacted similar compliances from Walter de Lacy and Ralf Musard; and when the earls of Chester, Gloucester, and Albemarle came up to court to remonstrate, the young king was induced to fortify himself in Gloucester as though they meditated seizing his person (Nov. 16-23, 1223).¹ Finally, the earl of Chester and others had been compelled to give up their castles under threat of excommunication from the primate; and the strongholds thus surrendered were afterwards redistributed unequally, with preferences to the justiciary and his partisans. All this while the archbishop reported to Rome that the country was quiet, for fear a legate should be sent. When one came over, notwithstanding, Hubert de Burgh had reconciled him-

¹ The Close Rolls show that Henry was at Gloucester between these dates, and that he issued there two precepts, one ordering all suits in Ireland against Walter de Lacy, detained in England on the king's service, to be stayed; and another, remitting certain arrearages to him from the time when he was sheriff of Hereford. Rot. Litt. Claus., pp. 575, 576. The letter of Honorius, permitting the chief nobles not to resign

their castles, is dated Nov. 20, and must therefore have been applied for some weeks before; (Royal Letters, vol. i. p. 539); while a letter to the pope, reporting the country quiet, is dated, Westminster, Dec. 19; (New Rymer, vol. i. part i. p. 171); and transfers of castles in the interest of the government were in fact going on between Nov. 15, 1223, and March 21, 1224. Royal Letters, i. pp. 538-576.

self with tears to his chief opponents, while he sent an envoy to Rome raking up a charge of eight years' standing against Faukes. In the affair of the judges, Henry de Braybroke, an austere man, had a private feud against William de Breauté, and gave sentence against him without trial. Nevertheless, William had been so well aware of his brother's regard for order that he fled with his captive into the woods, and Faukes was making diligent search for them when the great expedition under Hubert surprised him. On receiving the summons to surrender, the garrison had exhibited the papal privilege or commission, and demanded that the matter should be referred to Rome.¹ The English bishops had especially pressed the siege. Even then Faukes was willing to stand trial, if his three chief enemies might not sit among his judges. His overtures were disregarded; and, finding himself excommunicated, a yearning for absolution had induced him to accept the archbishop's safe-conduct. Nevertheless, he was kept ten days without spiritual privileges; and, finally, chiefly by advice of the primate and the bishop of Bath, the garrison of Biham was hanged while the lay lords had gone away to dinner.² Faukes himself had been induced to make public penance; and the archbishop had preached over and at him, though he had assumed

¹ According to Ralf de Coggeshale, Faukes had been before summoned to give up Bedford, and had refused on the ground that he held it as his own by special charter from king John. Bouquet, xviii. p. 119.

² In this part of the letter the facts of two different years are confounded. In 1221, William, earl of Albemarle, seized Biham, a royal castle in Lincolnshire, it was thought at the instigation of Faukes de Breauté. The castle was speedily

taken by a royal army, but the garrison, by an injudicious lenity, were set free without ransom. Other particulars seem to be inaccurate. Wendover states (iv. pp. 97, 98) that the garrison of Bedford were hanged next day after the capture, Aug. 15, the first on which the safe-conduct given to Faukes was valid; (Royal Letters, i. p. 235); so that he can hardly have surrendered himself ten days previously.

the white cross and appealed to Rome. He was next forced, against all canonical precedent, to resign all he held even out of England, as damages for diverting the expedition that had been destined to Poitou. But Faukes believes that it was always aimed at himself; both because it assembled at Northampton, rather than at Portsmouth, and because the English baronage had always disputed their obligation to serve in Poitou. Lastly, the primate and bishop of Bath had wounded his feelings, as he was leaving the country, by taunting him with having sent to Rome for a legate, as if it were wrong, or anything but right, to have appealed to the pope. From this impudent document we at least glean some particulars of the struggle of the crown with its turbulent magnates, a little further evidence of Stephen Langton's sturdy patriotism, and abundant proof of the intolerable nature of the claims that Rome set up, or suffered to be set up, of a right to interfere with the home government.

Probably it was some feeling that a vigorous government was at last established, and a just suspicion of royal commissions that had lately been issued for ascertaining and enforcing the rights of the crown, which induced the barons, in the Christmas meeting at Westminster (1224), to make the re-enactment of the last edition of the charters a condition of their grant of a fifteenth for the war in Gascony. Henry easily consented, and commissions were issued in every county to ascertain the proper limits of the royal forests. So strong was the popular feeling on this point that for once not one iota of a royal ordinance was left uncomplied with. Meanwhile Henry had despatched his young brother, Richard, earl of Cornwall, whom he had lately knighted, and named earl of Poitou, to learn war in France under his uncle William of Salisbury.

With an armament of three hundred ships, and backed by the native nobles who flocked to his standard, Richard easily overran Gascony, reduced St. Macaire, and had invested La Réole, which the townsmen defended obstinately, when a French army crossed the Dordogne, reinforced by the troops of the faithless count de la Marche. The English chroniclers claim a victory in the engagement that ensued; but the advantage cannot have been great, as the French, though driven back over the Dordogne, were able to reduce Bergerac and Limeuil, while Richard's army seems to have suspended operations for the year.¹ Want of funds may have been the reason of this, for the prestige of the campaign seems on the whole to have rested with the English; and Louis relinquished his attempts on Gascony for the fairer prospects of another Albigenian crusade. It was ominous of his intentions, however, that he refused to treat for peace. For a time Henry was anxious to cross over in person and share his brother's glory. But the pope forbade him to thwart the operations of a crusader; his council recommended inaction, and an astrologer in whom he trusted predicted that the king of France would certainly fail or die in his expedition. Fortunately, in the autumn of the next year (Nov. 1226), the prediction was fulfilled, Louis dying of a fever at the moment when his successes in Provence were threatening to lay the whole of the south at his feet. Savari de Mauléon improved the occasion by returning to his old allegiance, and bought a reconciliation by the surrender of Rochelle. The English had nothing to gain by prolonging the war, and the French regency, as the new king was a minor, were naturally glad to conclude a truce which soon

¹ "Totam sibi Wasconiam subjugavit." Wendover, iv. p. 102.

ripened into a short peace under mutual guarantees of free trade.

The state of England after the siege of Bedford was for some years uneventful, though not without its little anxieties. Faukes de Breauté was evidently well supplied with money by his old associates, for he contrived to obtain letters from the pope commanding that his wife and lands should be restored to him. The pontifical conscience had been especially pained by the primate's setting aside the sacrament of marriage in Margaret de Rivers' favour. The English government was, however, firmly resolved to hear of no compromise that would admit back into England the chosen soldier of the party of rebellion; and between embassies to Rome, intrigues with the papal legate in France, and the lucky accident that Faukes was again captured as he passed through France, this time by a former prisoner of his own, the difficulty was staved off till the interesting exile died, it was said, of poison (1226). Neither was Honorius more fortunate in an attempt to codify, so to speak, the irregular exactions of the papal curia in England. His chaplain, Otho, after some minor exactions, and having partly conciliated the court by admitting the badness of Faukes de Breauté's case, took advantage of a great council at Westminster, in which the king was declared of full age, (Jan. 13, 1226),¹ to propose a scheme for settling the money relations of the country with Rome. It was in effect, that whereas now large bribes were paid to individual members of the papal court, England should compound by assigning a certain proportion of her prebends and church revenues to the pope himself, who would thus be able to place his

¹ Since Jan. 1223, he had been and wards; but could not be im-
allowed to dispose of castles, lands, pleaded. *Annal. de Dunstapliâ*, p. 88.

officials beyond the need of corruption. The French proctors, to whom this scheme was submitted about the same time, objected that they would still require patrons at Rome, and would be compelled to fee them; so that the proposed change would only add to their burdens, while it would further involve the residence of a papal commissioner in every diocese. Nevertheless, so great was the dependence of the English clergy on Rome, that Stephen Langton despaired of defeating the ill-advised project, if Otho should stay in the country. He contrived to adjourn the decision of the question, on the ground that a fuller meeting must be summoned to determine so weighty a matter; and in the interval procured letters from Rome recalling Otho. In the absence of the papal commissioner his proposal was easily disposed of. A diplomatic answer was given that the concessions required concerned the whole of Christendom, and that England, placed on the world's verge, would wait and observe how other kingdoms comported themselves.¹

The ascendancy of Hubert de Burgh was by this time becoming paramount in England. His long possession of the office of chief justiciary, and his marriage to a princess of Scotland, had already put him on a level with the old nobility, when, in 1227, he was raised to the earldom of Kent. Inheriting from three wives whom he had survived, and having the custody of four royal castles, he seems further to have drawn largely from the royal exchequer, and had thus added many manors by purchase to his possessions. His appetite for wealth had once betrayed him into a strangely undignified act. On a report of the earl of Salisbury's death at sea he had begged the countess dowager,

¹ Wendover, iv. pp. 117-124.

who had been near thirty years a wife, in marriage for one of his nephews. The indignant lady told her suitor that she had just received tidings of her husband's safe return, but that in no case would she have given her hand to one so far below her. The earl took up the matter more seriously, and would only be pacified by a public apology and large gifts, which were, unhappily, succeeded by a banquet of reconciliation, soon after which William Longespee died, it was thought, of poison. Surrounded by men who hated him as a parvenu, or, like Faukes de Breauté's party, because he repressed disorder, it is scarcely wonderful if Hubert de Burgh came to guard his power jealously, and to court the king's favour by taking part with the crown against the people. He cannot be blamed perhaps for persuading the king to break absolutely with his old tutor, the bishop of Winchester, Hubert's rival for power, and certainly a less worthy favourite, who quitted the scene of his defeat on a pilgrimage to the Holy Land. But it was currently imputed to the earl of Kent's counsels that the king, who had hitherto only reigned in form, notwithstanding the pope's bull four years before, now declared himself of age (Feb. 1227), called in all charters of lands and all franchises for renewal under the great seal, and caused the fines to be assessed by an arbitrary estimate of the tenants' wealth. The large sum of £100,000 was collected in this way.¹ Nor could the king's chief minister escape the suspicion of having counselled the monstrous measure of cancelling the forest charters, on the ground that they had been extorted from Henry during his

¹ Hardy's Preface to Rot. Chart. 89,000 marks. Paris, Additamenta, in Turr. Lond., p. vi. Another estimate, however, places it only at

minority. Presently the indignant nobles found a leader and an opportunity for resistance. Richard of Cornwall had taken into his own hands a castle alienated from his demesne by his father, to the use of a German mercenary, Waleran.¹ The ejected knight complained to the king, and Henry tried to intimidate his brother into immediate restitution. Richard angrily refused, and declared he would only submit to a verdict from the peers. Then, as was reported, Hubert recommended that the earl of Cornwall should be seized in the night, and Richard scarcely escaped through a chance warning. The baronage at once sprung to arms, and it was significant of a change of parties that the king's brother-in-law, the earl Marshal, headed them. Henry bowed before the storm, and agreed in council, at Northampton (August 3, 1227), to endow his brother with all the lands that had been in his mother's dower, and with other estates. Probably Waleran was restored in consequence. The barons had spoken warmly about reviving the forest charters, but on this matter the royal will seems to have triumphed.

Every succeeding year saw Hubert grow in honours and wealth, and in enemies. In 1228 the barons, it was said, secretly conspired with Llewellyn of North Wales to procure a disastrous defeat of the king's forces, that the justiciary's credit might be impaired, and a castle which he had commenced founding to bridle the Welsh was dishonourably razed by agreement. Next year the discontented barons of Nor-

¹ I cannot find any notice of a castle in Cornwall given to Waleran Tyes by John, but he inherited several manors there from Theodoric Tyes, in 1223. (Rot. Litt. Claus., p. 555). Waleran seems to have been

a thorough partisan leader in the civil war. There is extant a precept from John, ordering him to give a fifth part of his booty to his soldiers. (Rot. Litt. Claus., p. 233.)

mandy sent envoys to the king, inviting him to come over and retrieve his inheritance. The nobles generally were in favour of war. Hubert, who knew better than any what the chances of a campaign in France were, and who had more to lose than to gain by any fresh adventure, dissuaded the king, for a time successfully, from embarking in an enterprise which he was quite unfitted to conduct. But a few months later the war party prevailed, and Henry assembled an army, such as England had never yet seen, at Portsmouth (Michaelmas, 1229). It then appeared that the justiciary, either believing to the last that Henry's purpose would fail him, or determined to thwart the expedition at all risks, or perhaps really unequal to the occasion, as writs were certainly issued to the sea-board counties two months before the day of rendezvous,¹ had failed to provide any adequate shipping or commissariat. The petulant king called him "hoary traitor," told him that he had taken money from the French queen, and was only restrained by the bystanders from rushing on him with his drawn sword. The arrival of the king's ally, the count of Brittany, who pointed out the unfitness of the season for the expedition, pacified Henry, and before long he received his justiciary into favour again. Next year the king actually sailed. The magnitude of his preparations seems to show that the people were with him and had begun to regard the recovery of the lost provinces as a point of national honour. But no army could effect much under such a general as Henry. Favoured by the quarrel of the French barons with the queen regent, he besieged Nantes without serious opposition, though also without success, and made a

¹ Royal Letters, vol. i. pp. 356, 357.

brilliant military promenade into Poitou and Gascony. But there his successes ended. A party among the Norman barons invited him to enter the duchy and promised active co-operation. It was imputed to Hubert de Burgh's counsels that the king declined the proposal, and left his partisans to be deprived of lands and honours by the French government. Late in the year Henry returned to England (Oct. 26), leaving behind him the main body of his troops under the count of Chester, who continued a marauding war in Anjou and on the borders of Normandy. When results were reckoned up, it appeared that no substantial success had been achieved, while many English gentlemen were ruined by the expenses of the campaign. The odium of all fell upon Hubert de Burgh. Yet it is difficult to see that he could have acted more wisely than he did in withholding the king from all desperate hazards, and the one great mistake of making the war was certainly not chargeable to the justiciary.¹

But Hubert's position at home was now complicated with fresh difficulties, from the connection of the English Church with Rome. The great Stephen Langton had died—too soon for his country—in 1228, and the nominee of the Christ Church monks had been so objectionable, from family, personal, and political antecedents, that the king had refused to ratify the election.² The case was, of course, referred to Rome, and the royal proctors, despairing of success by legal means, offered the pope a tithe from all England as the price of the

¹ Wendover, iv. p. 209-217.

² The reasons given for Henry's dislike are curious. Walter de Hemisham was useless to himself and the kingdom, his father had

been hanged for theft, and he himself had given the king's father trouble in the time of the interdict. He was also charged with immorality. Wendover, iv. pp. 170, 171.

desired decision. Gregory, then in the full heat of his contest with the emperor, caught eagerly at the offer, annulled the monks' election, and, without even the ceremony of a new one, such as Innocent had directed, appointed Richard, chancellor of Lincoln, to the primacy. It was a fresh encroachment on the corporate rights of the Anglican Church. Even before the pall had been received, a papal legate appeared (April, 1229) to enforce the bond. In a great synod at Westminster he expounded the reasons which had constrained the father of the visible Church to curse the most illustrious of his sons, the head of the Roman empire, and arm one half his children against the other half. He ended by demanding speedy and sufficient aid. The king, to whom all looked, was bound by his plighted word to offer no opposition; the clergy, after four days' debate, gave a reluctant consent under fear of excommunication; but the baronage and gentry declared stoutly that they were no vassals of Rome and would pay no tithes out of their possessions. The earl of Chester even forbade the clergy on his lands to contribute anything to the impost. In fact the laity had an immediate interest in the question, for the sudden levying of a tax which could only be exported in gold, and which included even the future harvest, must have drained the country of its specie and affected the rents of all landed proprietors; and interference with lay presentations to benefices was becoming increasingly common. The opposition, however, did not hinder the legate on this occasion from carrying out his purpose, and he did it in the most offensive manner, refusing the composition offered him by the clergy. But two years later a Committee of Public Defence was formed, which sent circular letters to the leading

bishops and convents, recapitulating the notorious abuses of papal misgovernment; how presentations in blank for five lives of benefices not less than £100 in value were reserved from the English livings that should fall vacant, without regard to the claims of patrons or of the native clergy; and stating that it was resolved to rescue the Church and realm from these exactions by sharp measures. The parties addressed, therefore, were directed to have all the first-fruits and tithes destined for Rome ready by a certain day, when the committee would have them collected under penalty that the houses of the defaulters should be burned. These briefs were given in by soldiers, and the seal bore the device of two swords, common to cathedral citations. For some months they were generally obeyed. When the "posse comitatus" was called in on one occasion at Wingham in Kent to a rescue, the officers of the commission exhibited letters patent under the royal seal, whether forged or not is uncertain, and easily persuaded the guardians of order to disperse. The corn and hay seized were either given or sold cheap to the poor, who blessed the movement. The papal commissioners were roughly handled and their bulls trampled under foot; one man was cut in pieces, another left half dead; most were wise enough to hide in monasteries. At last the indignant letters of the pope forced the English government to inquire into disorders which were only not legalized by publicity and the impunity of their agents. It appeared that bishops and deans, sheriffs and reeves of all kinds were consenting parties to what had been done.¹ The

¹ The pope especially charged the English bishops and state officials with complicity, but hinted that the king was not himself innocent. "Non

chief actor, or perhaps rather the boldest, whom others agreed to put forward as their scapegoat, was a Yorkshire knight, one Robert Twenge, who declared that his right of nomination to the one benefice he possessed, that of Luton, had been taken from him, and that he would sooner be excommunicated for a time than lose his property. The council agreed that he should go to Rome, and the king furnished him with letters testifying to the truth of his statements and claiming a fair hearing for him. For some unexplained reason he did not trouble himself to make the journey for seven years, and then appeared as bearer of a letter from sundry English nobles aggrieved like himself. By this time Gregory's anger had cooled, or he had acquired a more thorough knowledge of the English laity. He dismissed the gallant petitioner with a bull declaring that he had never meant to invade the rights of lay proprietors of advowsons. He reserved his oppressions—as a chronicler remarks—for the unarmed and the clergy.¹

Hubert de Burgh, who was said to have privately issued the royal warrants by which the commission had justified themselves, paid the penalty of his patriotic opposition to a tyrannical pontiff and a weak master. It so happened that at this moment Peter des Roches, the king's old tutor, returned to England with all the

sine tuâ, ut dicitur, conniventia." New Rymer, vol. i. part i. pp. 203, 204. Afterwards, by the influence of the bishop of Winchester, all was laid upon Hubert de Burgh. Wendover, iv. p. 245; New Rymer, vol. i. part i. p. 208.

¹ Paris, Hist. Major, p. 513. From a notice in the *Excerpta e Rot. Finium*, i. p. 427, it seems as if Robert

Twenge fell, a little later on, under the king's displeasure, as his lands and chattels are assigned in 1244 to John le Fraunceys. He, or another Robert Twenge, was, however, concerned as plaintiff in a suit in 1267 (*Abbrev. Placit.*, p. 160), and the family retained lands in Yorkshire for many years.

prestige of a pilgrim from the Holy Land. He found Henry weary of his minister, disgusted with his own ill-success in kingship, and complaining that he had barely means to defray the expense of his household, much less to raise an army against the incursions of the restless Llewellyn. Considering the enormous cost of almost a whole year's campaigning in France, it is perhaps no wonder if the royal treasury was exhausted, but it seems equally certain that Hubert and many in office were over rich. Corruption was, in fact, the crying vice of the times, and men who had to purchase every step on in life, and who held their offices by the tenure of royal favour, might almost be forgiven if they took freely in in order not to fall. But the bishop of Winchester's advice that the king should reclaim his own from his dishonest servants was too tempting not to be followed by a weak and unscrupulous man; the lesser officials were first squeezed; and then Hubert was deprived of his justiciarship and summoned to give in an account of all the sums he had received in discharge of his several offices, and of all moneys due to the crown through his own laches in administering the royal demesnes, or in allowing private wars or disorders. He was even cited to give in accounts of all trusts held during the late reign, and a quittance given by king John himself was contemptuously disallowed as invalid under a new king. As if all this were not sufficient for his ruin, other counts, some of which seem absurd beyond belief, were accumulated against him. He had married the king of Scotland's daughter against canon law, and to the prejudice of the crown, if his heir should thus acquire the Scotch succession; he had dissuaded the duke of Austria from marrying his daughter

to Henry; he had counselled the king against invading Normandy; he had captivated the king's affections by sorcery; he had given the wonderful stone, which made its wearer invincible, out of the treasury, to Llewellyn of Wales; he had procured the death of William de Braose, whom Llewellyn caught in his wife's bed-chamber and hanged. The most probable charges accused him of making money by unjust confiscations or by intercepting ransoms that were due to other men, but it does not seem that any of these were proved, and the foul rumours that he had poisoned several rivals¹ were never brought into a court of justice, and one of them at least seems to have been emphatically disbelieved by the dead man's relatives. Accusers, indeed, were not wanting, but they were men whose disorders Hubert had repressed; and the charge finally put forward against him in the royal writ for his custody was only that he had encouraged the violences against the papal proctors.

Nevertheless, with a strange disregard of judicial decency, Henry caused a proclamation to be made in the streets of London, inviting all who had any complaint against the late justiciary to bring it forward. Hubert might well anticipate with alarm that some false witnesses would be found in a large city, where he had been unpopular ever since he suppressed the riots and hanged Constantine, and shortly before the day fixed

¹ The earl of Salisbury, the earl Marshal, Faukes de Breauté, and Richard, archbishop of Canterbury, were the victims specified. As the earl of Salisbury was seventy-three when he died, it is perhaps needless to assume foul play in his case;

Faukes de Breauté died in France; the only quarrel Hubert had with the primate (about Tonbridge castle) was decided in the earl of Kent's favour; and the third earl Marshal delivered him from Devizes prison.

for his trial he fled to the church of Merton for security. Henry, when he learned of the flight, angrily ordered out the whole civic force of London to bring back the fugitive in custody, and twenty thousand men had actually started with banners when the earl of Chester convinced the king of the great danger of legalizing mob-law. Presently, on the intercession of Lucas, archbishop of Dublin, the one friend who was still true to him, and who could approach the king, Hubert received an extension of time till the 15th of January, to prepare his accounts. Understanding this respite to imply general liberty, he set out to join his wife at Edmondsbury. But being at Brentwood, on his way through Essex, he learned that royal soldiers had arrived to apprehend him, the king suspecting that he intended to ship from the coast. He had just time to start from bed and rush naked into a neighbouring chapel, where, holding the cross in one hand and the host in another, he stationed himself at the altar. As he would not quit the asylum, Geoffrey de Cravecombe, who commanded the party of arrest, took him out by force and ordered a smith to shackle him. The stout Englishman refused. "As God lives, I will die any death before I fasten iron on him who freed England from the alien, and saved Dover, the key of the realm, from France." The captors were fain to bind their prisoner with bridles. But his release was speedy, for the bishop of London threatened to excommunicate every man concerned in the sacrilegious outrage if Hubert were not replaced in the chapel. Yet the issue of events could not be doubtful. Watched unremittingly lest he should escape, his servants at last expelled the chapel and forbidden to supply his wants, the doomed man lost heart, and though he might apparently have appealed to the right of asylum and abjured the

realm,¹ consented to surrender and stand his trial. He added that he implored the king's mercy.

During the interval between Hubert's flight and his surrender, Henry's anger had had time to cool, the fallen man's enemies were able to assure themselves that he was without a party in the governing classes, and the most rancorous foe of all, Ranulph, earl of Chester, had just died. Henry, too, was probably appeased by the completeness of his triumph, and by the seizure of the vast wealth which the ex-justiciary had deposited with the Master of the Temple, and now agreed to surrender. There were not wanting men who sought the king's ear with demonstrations that eight thousand pounds of silver and a profusion of jewels and gold plate could not have been amassed honestly, and that their possessor deserved to die as a felon. But Henry answered, with some nobleness, that he had rather be thought a fool and slow to exercise his just rights, than cruel and ungrateful towards one who had done his father and his uncle good service. As in consequence of Hubert's resolve to throw himself on the king's mercy, there was no need of a trial, it remained only to determine his fate. A party of the nobles were by this time willing to intercede for him, either from genuine good-feeling or from dislike of his successor, or from a natural aversion to sweeping sentences upon

¹ Cf. Bracton (fol. 136). This, however, would have been a confession that he was guilty of a felony. Britton seems to imply (cap. 16) that a fugitive had an unconditional right to remain forty days in the asylum, but Bracton appears to limit it to "unam noctem ad plus." Then, if the ordinary refused to expel him, he might be starved out. In

this case Hubert seems to have remained the whole term (*Annales de Dunstapliæ*, p. 129). If he had stayed longer he would have become a felon at law (Britton, cap. xvi). But, in fact, Henry treated him as one, and granted away some of his lands for the legal period of waste in a felony, a year and a day. *Excerpta e Rot. Finium*, p. 249.

fallen men. All the lands he had acquired at any time from the crown, and his whole personalty, were confiscated. The remainder of his property, acquired by inheritance, by dower, or by purchase, might remain to him and his heirs, with reservation of any claims that might hereafter be set up against it in a court of justice.¹ It was understood of Hubert himself that he was willing to withdraw from the world whenever his wife's death should permit him, and become a Templar.² Meantime, he was committed to the strict custody of four great nobles. Two of these had lately headed an armed opposition to the earl of Kent's government, and a rumour was afloat that he had caused the brother of one of them, the second earl Marshal, to be poisoned. Yet the event showed that in a year's time these men were reconciled to their prisoner, and procured his partial restoration. Thrown upon difficult times, and retained in the crown's service, Hubert may have governed too harshly, and having his fortune to make, may sometimes have stooped and soiled his hands in gathering it, but it is hard to see that he was below the morality of his age, and the smith's speech for him at Brentwood is after all only half his apology, as the gallant defence of Dover, and the splendid leading of the forlorn hope

¹ New Rymer, vol. i. part i. pp. 207, 208.

² An attempt had been made to upset this marriage, on the ground of consanguinity between the princess Margaret and Hubert's third wife, the countess of Gloucester. The earl of Kent was accused of having interposed wanton delays in the law-proceedings by appointing the court to consist of three judges in different parts of England. *Annal. de Dun-*

stapliâ, p. 128. He was also said to have encouraged the attacks on the clergy by the men called Lewytheil, that he might revenge an actual sentence of divorce. *Paria, Additamenta*, p. 152. Nevertheless, the evidence of the deed of pardon is explicit, that he cannot become a templar at present, "*quia uxoratus est.*" Probably the account in the *Additamenta* is wrong in assuming that judgment had been given.

against Eustace le Moine's fleet, were rather the opening than the consummation of a patriotic career. The soldier who won his spurs by saving England from the French baron and Flemish mercenary, lived to rescue her by vigorous statesmanship from the tyranny of an Italian viceroy and the anarchy of her own nobles. His enemies were the worst men of the day, Faukes de Breauté and Peter des Roches; his friends the earls Marshal and Stephen Langton. Under him, England passed from civil war to comparative order; under every other minister of that reign, from comparative order to civil war or its beginnings. The immediate occasion of his downfall was that he supported the commons of England against the pope, and a king who had sold himself to the pope. There have been Englishmen of larger statesmanship, of more spotless reputation and more commanding personality than Hubert de Burgh, but few whom courage, patriotism, common sense, and opportunity have enabled to do more abiding service to the commonwealth.

CHAPTER VI.

GOVERNMENT BY FAVOURITES.

ALIENS IN OFFICE. OPPOSITION OF THE GREAT NOBLES. CIVIL WAR.
 RUIN OF GROSMONT. MURDER OF EARL MARSHAL. AMNESTY AND
 CHANGE OF MINISTRY. HENRY'S MARRIAGE. FOREIGN INFLUENCES
 AT COURT. SIMON DE MONTFORT. COUNCIL OF MERTON. THE PAPAL
 NUNCIO. PAPAL COLLECTORS DRIVEN FROM ENGLAND. INGLORIOUS
 CAMPAIGN IN FRANCE. DE MONTFORT'S GOVERNMENT OF GASCONY.
 CORRUPTION OF THE JUDICATURE. HENRY'S TAXATION, PRODIGALITY,
 AND UNPOPULARITY.

THE ascendancy of Peter des Roches soon became unfortunately patent. His nephew, whom scandal called his son, Peter des Rivaux, was within three months invested with the command of Dover, Odiham, and Marlborough castles, in spite of the papal bull, which forbade any man to have more than two in his hands. The royal treasurership, the keepership of wards and escheats, the royal purveyorship at fairs, and the guardianship of the young John de Braose, were further evidences of royal favour in England, whilst in Ireland he almost absorbed the patronage of the crown, having a life-grant of the treasurership, the custody of ports and of the navy, of wards and escheats, of all vacant sees, of several castles, and of the cities of Cork and Limerick.¹ Stephen de Segrave, a renegade clerk, who

¹ Royal Letters, i. pp. 517-522.

had secretly promoted the exactions of the Roman legate, and who had lately swelled the cry against his early patron, Hubert de Burgh, recommending that he should be hanged, was made chief justiciary, and succeeded to the guardianship of the castles from which Hubert had been removed. Robert Passelewe, who had earned distinction as chaplain to the God-fearing Faukes de Breauté, was made deputy-treasurer, with the custody of the earl of Kent's forfeits, and appears to have stood high in the royal councils. Aliens or upstarts, and churchmen, these men could not even claim to represent the faction of feudal disorder, of which the late earl of Chester had been a consistent member. Their chief, the bishop of Winchester, had grown up in the traditions of John's reign, and desired to repeat the tyrant's policy of governing by foreign ministers and soldiers. A herd of hungry Poitevins and Bretons, to the number, it was said, of two thousand, came over with their followers to accept places under government and garrison royal castles. Men like Richard, earl Marshal, and the bishop of Carlisle, saw themselves or their friends displaced to make way for these hirelings. They perverted judgment in the courts by venal or ignorant decisions, and degraded the blue blood of the Anglo-Norman nobility by forcing their high-born wards into marriage with themselves and their kindred. It was a second conquest without a battle of Hastings.

Richard, third earl Marshal, was put forward by the native nobles as their spokesman to remonstrate with the king for his misrule, and threaten that his barons would cease to attend the council if aliens sate in it. The bishop of Winchester answered that the king was exercising an undoubted right in taking foreigners into his service, and would find men enough to bridle his

mutinous baronage. The nobles withdrew indignantly, and exchanged mutual promises of support. Being summoned soon afterwards to attend the king at Oxford (June 24, 1233), they returned a formal refusal. The judges being consulted, advised the king that they could not be considered contumacious till they had declined a third summons. But as troops were daily coming into the kingdom the barons again refused, and sent back word that, if the king did not rid himself of his foreign ministers and soldiers, they would send him and them out of the country and elect a new king. It was resolved in the royal councils to adopt a vigorous policy. An obnoxious baron, Gilbert Basset, was deprived of a crown manor, and his brother-in-law, Richard Siward, was sought for to be imprisoned, while the other nobles were directed to give in hostages within three weeks' time, to purge themselves of all suspicion of rebellion. At last a meeting of all military tenants-in-chief was convened for the 14th of August at Gloucester, the idea probably being that as the barons might attend this in arms they would not scruple to do so. With what reason we cannot certainly say, the earl Marshal and some others still withheld their attendance, in the belief that they would be treacherously seized. This default of duty to their military suzerain gave at least an excuse to the king for acting against them, and partially broke up their party. Richard of Cornwall had already been reconciled to his brother; the counts of Chester and Lincoln were bought over at the cheap rate of a thousand marks a-piece. An informal sentence was pronounced, declaring the absentees exiles and outlaws, and assigning their lands to the king's Poitevin followers. This was soon followed by a declaration of war against the earl Marshal, the king, as

in law bound, renouncing his suzerainty over him before he took up arms (August).

The hostilities, of which England was the theatre during the next six months, are more memorable for their constitutional aspect than for their military importance. Badly served by his foreign followers, and in the midst of a hostile nation, Henry broke down assignally as his father, in the very similar wars against William de Braose and the barons, had succeeded. The first incident of the campaign was the failure of the royal army to reduce a castle of the earl Marshal's. Diplomacy was called in, and the earl was induced to surrender it under pledge of restitution within fifteen days, that he might save the king's honour. Earl Richard and his party no doubt anticipated that the concession would furnish opening for negotiations. But the ministry broke faith shamelessly, and the earl was compelled to recover his own by force. He next resolved to deliver Hubert de Burgh, whose name was still a tower of strength, and whom Peter des Roches, it was said, intended to put to death. A midnight escape from Devizes castle was contrived, and Hubert renewed his experiences of church sanctuary—being again brutally dragged from the altar by his old gaolers, and replaced at the intervention of the bishop of the diocese. The issue, however, was this time different, earl Richard's partisans carrying him off before the sheriff had time to starve him out. Stung, perhaps, by this insult, the king, in spite of the lateness of the season (November), marched into South Wales, and fixed his head quarters at Grosmont castle, in Monmouthshire. He woke one morning (Nov. 11) to find his army a confused rout, and his camp in possession of earl Marshal's followers. With a lofty spirit, half

knightly, half loyal, the earl himself had refused to take any part in the expedition against his sovereign, and had ordered his followers to shed no blood if they could avoid it. Only two lives were lost in Grosmont Run; but the disgrace and loss of treasure were incalculable, earls, bishops, and justiciaries, flying almost naked from the field. In a brilliant skirmish at Monmouth soon afterwards, the victory again rested with the earl, who fought like a paladin, saved himself by sheer audacity and strength from a capture by overwhelming numbers, and slew nearly a thousand of the enemy who had sallied out from the castle. Another defeat of a Poitevin force who were marching to surprise him, and who fell themselves into an ambush, completed the demoralization of the royalists. The king remained at Gloucester, a powerless spectator of the war, and owing his own safety to the forbearance of his enemies. They now organized a series of attacks on the royal lands, and the estates of the obnoxious ministers, sparing the country generally; but burning, rooting up, and destroying on all the lands of their enemies. Llewellyn of North Wales joined the earl in a foray of this sort in the North, which only stopped with the burning of Shrewsbury. Even in a progress through the eastern counties the king saw from a distance the flames that consumed the property of his justiciary. It is scarcely wonderful if Henry swore, when he was once asked to admit the earl to terms, that he would never pardon him unless he implored mercy on his knees, and with a halter round his neck.

The constitutional party had meanwhile been well represented at court by the English bishops. The insult offered to Walter, bishop of Carlisle, who, having been deprived of all his offices, was taken forcibly out

of the ship he had already entered, and forbidden to go abroad, might have irritated a more long-suffering race than our mediæval prelates. They excommunicated the royal officers at Dover to the king's face, and added a general sentence on all who had caused the present troubles in the realm. But they had another very actual grievance against the party in power. It was Stephen de Segrave who had counselled the legate two years before not to accept the composition offered him by the English clergy, but to enforce it in full, to their infinite loss; and Peter des Roches had come into power on the distinct ground of supporting the papal collectors. Yet, with singular maladroitness, he had contrived to alienate the pope. Having made acquaintance with the German emperor in the east, and enjoying his favour at the price, it was said, of plotting to make England vassal to him, the bishop of Winchester applied to him to secure the primacy of England for a partisan.¹ The mistake was a fatal one. Gregory's hatred of his old antagonist had not been appeased by their apparent reconciliation, and neither interest nor gold could induce him to comply. His actual nominee, Edmund Rich, was a man of high character, certain, from his saintliness of life, to obtain influence over the king, and certain also to use it against the unworthy minister. In a council at Westminster (Oct. 9) the bishops admonished the king to make peace on the ground that his proceedings against his barons had been irregular. Peter des Roches answered, calling them traitors, and saying, that in England there were no peers as in France, and that the king might therefore give whatever sentence he chose. The speech was

¹ Matt. West., p. 293. Compare Wendover, iv. p. 267.

a curious proof of the influence exerted by Roman law, and by its conception of royal power as necessarily unlimited over all inferiors. An Englishman might of course plead, putting the Charter out of question, that every English tenant-in-chief had the privileges of a French peer. Whether they used this argument or not, the bishops expressed their indignation at the reply, and renewed a general sentence of excommunication on all who troubled the peace of the realm—abstaining only from special mention of the offenders, because Peter des Roches, the principal, having been consecrated at Rome, was not under their jurisdiction. The favourite was so far sensible of his weakness that he opened private negotiations with the earl Marshal in the winter, which came to nothing, because Richard persisted in maintaining that he was justified in making war when he could not obtain justice, and refused to put any trust in the king while he kept his present counsellors about him. Early in the next year (Feb. 2, 1234) the king came to a conference with the bishops at Westminster, and complained of several of them, especially the bishop of Chester, for taking part with his enemies. That prelate having made his peace by the cheap expedient of excommunicating on the spot all who were plotting evil against the king, the assembly, headed by the primate elect, addressed a general remonstrance to Henry on the subject of his misgovernment. They told him that Peter des Roches had ruined John by his counsels, had supported Faukes de Breauté against himself, and had provoked the present rebellion. They pointed out the folly of committing his castles, his wardships, his revenues, and the administration of justice to foreigners. They warned him, that, if he did not amend his government, they

would pass the last sentence of the Church upon him as soon as the primate was consecrated. The king asked time for consideration, relapsed into his old tutelage under the bishop of Winchester, and then suddenly, when the term allowed him had expired, when the primate was consecrated, and a new council of the realm met at Westminster, announced his intention of obeying the counsels of his bishops. Peter des Roches was sent back to his diocese: Peter des Rivaux summoned to give an account of his stewardship, and told that if he were not a clerk the king would have had him blinded. Above all, the primate and two bishops were sent to treat with earl Richard and Llewellyn.

Unhappily, the earl Marshal had now gone to answer before a higher court. It is said that the bishop of Winchester and his party had procured the king's seal to letters patent, of which he knew not the tenour, granting away the earl's lands in Ireland to a number of the chief barons there, some of his own liegemen, on condition that they should seize him, dead or alive, if he came into the country. Whether Henry did not really know what had been written is perhaps doubtful,¹ as there is an obvious tendency on the part of our chroniclers to excuse his worst acts in favour of his superstitious imbecility; his carelessness in any case was criminal; and the letters were the actual cause of a foul murder. The earl, as his party in England could afford his absence, crossed the seas at once when he heard that his lands were ravaged, and appeared at

¹ Wendover's language is at least suspicious: "But the king confessed in truth that under compulsion of the bishop of Winchester and Peter des Rivaux, and others, his coun-

sellors, he had ordered his seal to be affixed to certain briefs set before him; but he declared with an oath that he had never heard their tenour;" iv. p. 311.

first to carry everything before him. But there were traitors in his camp. To Geoffrey de Marsh belongs the singular infamy of having persuaded his lord to reject terms of accommodation against his better judgment, and then deserted him in the hour of battle.¹ Surrounded and alone, on that last battle-field on the curragh of Kildare, Richard cleared a circle round him with his sword, which none of his craven antagonists dared enter. They drove the wretched kernes of the country before them, and the earl's horse was cut and pushed down. The fallen man was, of course, easily secured; but his captors knew that his life would be the best conveyance of his estates, and they wounded him as they seized him. He might even yet have recovered, but unskilful or treacherous surgery brought on an inflammation of his wound, and he died, the sixteenth day after his capture (April 16). He had first been persuaded to surrender all his castles and lands to the crown. The first gentleman of his day, with as much learning as a knight needed, and with all his father's loyalty of nature, it was indeed a cruel fate that struck him down on an obscure Irish battle-field, fighting for law and liberty against the crown.

The news of the earl Marshal's death reached Henry at Woodstock, on his way to Gloucester, where the

¹ So says Wendover, whose account I have followed (iv. pp. 300-308). But it is open to doubt. In August, 1235, the king restores his confiscated lands to Geoffrey de Marsh, but only with great reservations, and his son is apparently excepted from pardon. *Excerpta e Rot. Fin.*, i. p. 286. See p. 205, note 1. The Four Masters make Geoffrey Marsh deserted by his

people, and himself taken prisoner. Their account has several inaccuracies; they call him Geoffrey Mareschal; and imply that the earl was killed in battle. On the whole the words applied to Geoffrey, "who had stood alone fighting on the field of battle," look as if they had confounded him in fact, as well as in name, with the earl. *Annals, A. 1234.*

meeting for a final accommodation was to be held. As excessive in his good impulses as in his bad, the king burst into tears, declaring that the dead man had not left his like behind him, and at once ordered masses to be said, and alms distributed, for the repose of his soul. The terms of peace were now easy to arrange: the more so as Llewellyn, whose audacity and self-assertion might have done credit to a Cæsar, announced that the sovereign of North Wales was willing to make peace with his brother of England whenever the nobles, his allies, were reconciled to the crown.¹ The rebels made submission, and received complete pardon and restitution to all their forfeited lands. Gilbert Marshal was invested with his late brother's honours and domains in England and Ireland—the murderers thus losing the prize of their treason.² Hubert de Burgh was not only replaced in the possession of the estates which the king's first pardon had confirmed to his family, but allowed to recover at law the royal grants which the king had reserved for himself and since granted away, the treasury indemnifying the ousted possessors. Henry further offered to let the sheriffs of every county in England proclaim a solemn reversal of the sentence of outlawry lately issued against him, but the earl refused the reparation on the ground that the condemnation had never been valid at law.³ The

¹ Compare Wendover, iv. p. 309, and New Rymer, vol. i. part i. p. 212.

² The castles of Striguil and Dumas were to be given into the custody of the archbishops of Canterbury and Dublin respectively. Royal Letters, i. p. 439. The surrender, however, was probably only for show. Cf. New Rymer, vol. i. part i. p. 212.

"Reddidimus omnes terras et tementa sua."

³ Matt. Paris, *Additamenta*, p. 153. Wendover says he was admitted again on the council, (iv. p. 311); and Henry's patent of pardon contains a curious clause that he shall not claim the justiciarship, or cause it to be claimed by any one else. Royal Letters, i. p. 440.

answer, worthy of an English gentleman, was brought up rancorously against him in later days. A two years' truce with Llewellyn completed the general settlement. Vengeance was next taken upon the late troublers of the kingdom's peace. Unhappily their tenure protected them from the proper punishment of their misdeeds; but their own precedent in Hubert de Burgh's case was retorted against them; they were shorn of all their offices and estates, and summoned to render accounts of all moneys they had received.

A long interval of inactive misrule succeeded. One of the first cares of the council, when tranquillity was restored, was to arrange a marriage for the king. Never perhaps has any monarch betrothed or sought to betroth himself so often as Henry. As early as 1226 he swore to marry Iolenta, of Brittany.¹ Later on he began negotiations with the dukes of Austria and Bavaria, the king of Bohemia, and the counts of Bigorre and Ponthieu.² Why nothing came of these projects is difficult to decide. The charge against Hubert de Burgh, of having slandered the king in the matter of the Austrian alliance, is perhaps some proof that Henry's credit was not very high on the continent. By one account the king desired to lead a life of monastic continence.³ A naïve expression, in a letter from the queen of France, that she will not detain her sister whom

¹ New Rymer, vol. i. part i. p. 180; Paris, *Hist. Major*, p. 337. Another account says that the count of Brittany wished to marry his daughter to earl Richard. Mouskes, vers. 27,589, cited in Tillemont, *Hist. de S. Louis*, tome i. p. 432.

² He also wished (1231) to marry Marjory, the youngest sister of Alex-

ander II., but the nobles objected because Hubert de Burgh had married the eldest sister, and the earl of Brittany succeeded in setting the match aside. Wendover, iv. p. 227. The lady afterwards married Gilbert, fourth earl Marshal.

³ Chron. de Lanercost, A. 1236.

Henry actually married, lest he should change his mind, perhaps gives the truest reason that the king's policy and impulses were liable to sudden variations.¹ In fact, he had withdrawn his proposals for the count of Bigorre's daughter under threat of war from Louis,² who apparently did not wish to see the English dominion in France cemented by fresh alliances. Eleanor of Provence, the king's present choice, was the second of a family famed for beauty and accomplishments, and herself a poetess. Besides the dower, which had been matter of careful stipulation, she brought with her a train of relatives whose foreign graces and refinement endeared them to the weak and uxorious prince. Within four months after the splendid wedding (January 14, 1236), when London had been too small to contain the crowds who flocked to do honour to their king, the nobles were so indignant at the ascendancy of the queen's uncle, William, bishop elect of Valence, that they refused to attend the court in the Tower. Nevertheless, the fee of Richmond and all the lands once enjoyed by the duke of Brittany were bestowed on the favourite, and when he last left England he carried with him treasure sufficient for the loading of several horses, and when he returned presently to the golden land, he at once resumed his influence over the king. Only his untimely death, by poison in Italy (1239), where he was retained on the pope's side against Henry's brother-in-law, Frederick II., saved the chapter of Winchester from the necessity of electing him. Two years later, another uncle, Peter of Savoy, was raised to the chief place in council, and largely endowed with royal castles and wardships.

¹ Champollion-Figeac, *Lettres de Rois*, i. pp. 42, 43.

² Paris, *Hist. Major*, p. 417.

Wiser than the king, and perceiving the odium he had incurred, he resigned much of his preferment within a year (1242). But the gravest scandal of all was the election of a third, Boniface, to succeed Edmund, of sainted memory, as primate (1241). It was a lamentable proof that Henry's only substitute for principle, superstition, had no power to restrain him where his feelings were interested. Boniface was ignorant and overbearing, generally a non-resident, and at heart a soldier. He signalized one of his few visitations in England by a disgraceful scuffle at St. Bartholomew's convent, where his right to enter was disputed, beating the aged sub-prior with his own hands, and showing a coat of mail under his robes. The king refused to listen to the monk's complaints, but the indignant citizens of London forced the primate to take boat hastily for Lambeth.¹ Count Thomas, a fourth uncle, visited England twice (1248, 1258), and received large gifts; only the patriotism of Simon Norman, who refused to affix the king's seal to the deed, and was dismissed office in consequence, hindered him from obtaining a toll of a groat on every sack of wool exported. These favours might have been endured if the queen's relatives had been their only recipients. But the princes of Savoy were well-minded towards their countrymen. Count Peter, on one occasion, brought over a train of young ladies from Savoy to be provided with husbands, and three English earls, at a time when there were less than thirty in the kingdom, were married without the power of choice, being royal wards, to foreigners.² Foreign dependants of low birth were enriched in the same way with the hands of English

¹ Paris, Hist. Major, pp. 780-783. The citizens prevented any further inquiry into the tumult from being

made. Liber de Ant. Leg., p. 17.

² Paris, Hist. Major, p. 519.

heiresses, or provided with wardships or benefices. It added to the influence of the Savoy party that the earl of Cornwall had married Sanchia, the queen's younger sister, and was thus attached to the foreign interest.

But there were "king's men proper," in the language of the times, as well as "queen's men," about the court. On the death of the queen dowager (1246), her three sons¹ and a daughter finding that their connection with England had ruined their fortunes in France, where Poitou was overrun by the enemy, came over, not unnaturally, to their half-brother's court (1247). They were speedily and well cared for. Alicia was married to the earl Warren (1247); Guy's daughter found a husband in the young earl of Gloucester (1253); and Aymer was made bishop of Winchester on the first vacancy (1250), and enjoyed the revenues for ten years before he was consecrated. Greater favours still were reserved for William de Valence, who received, besides other emoluments, the hand of an heiress and the earldom of Pembroke.² Guy, the eldest of the family, was not unpopular in England, having done good service to the English army in Poitou. But William de Valence was noted for his overbearing insolence and his unconstitutional counsels. He was twice driven out of the country, and at the time of the barons' war it was no secret that his life was not worth a day's purchase if he were taken. In default of other means the English nobles tried to revenge themselves on their rivals in tournaments. William de Valence was soundly basted at one of these, and the king forbade another lest the less obnoxious

¹ The earls of Lincoln, Devon, and Kent. Blauw's *Barons' War*, p. 14.

² He married Joan, heiress of

Warine de Munchensi, and afterwards of her brother William. Paris, *Hist. Major*, p. 732. Dugdale's *Baronage*, i. p. 774.

Guy should be cut to pieces at it. Nor was it only the great who suffered from these men's insolence. Foreign favourites at court meant a system of government by foreign officials in preference to native sheriffs and seneschals. The new men openly professed to know nothing and seek nothing of English customs or laws. In one instance the earl of Pembroke's servants actually killed a man by rigorous imprisonment, and gibbeted his body, for killing a hen by a chance cast of a stone.¹ It was a curious feature in the king's character that he seemed to prefer foreigners for their own sake to his countrymen. Whatever crumbs of royal favour remained from the banquet of Savoyards and Poitevins, were lavished on Italian clergy or on foreign artists and cooks. Even the king's jester was a Poitevin, and was rewarded with a benefice. It is true he was also chaplain to Henry's half-brother, Geoffrey of Lusignan.²

But among the many favourites whose alien birth recommended them to the royal caprice, there was fortunately one of the noblest temper and mould. Simon de Montfort was the representative of a French family which had acquired a moiety of the earldom of Leicester by intermarriage with the Fitzparnels. When England was laid under interdict, the fourth earl De Montfort disobeyed the king, perhaps declared in favour of the pope, and was in consequence heavily fined, with sequestration of his lands and honours, the guardianship of which was bestowed a few years later on his nephew, Ranulph of Chester.³ Occupation in the Albi-

¹ Rishanger, pp. 4, 5.

² Paris, *Hist. Major*, p. 850.

³ Knighton (*Twysden*, p. 2347) says, "*propter inobedientiam suam erga regem exheredatus et exlegatus cum filiis suis.*" Dugdale, quoting

only Knighton, says he adhered to the French. *Baronage*, i. p. 752. Taking official documents, we find all the earl's lands committed, in Feb. 1207, to Robert of Ropeley's care, "till we have had thence the

gensian crusades perhaps withheld the family at first from pushing their claim to the estreated estates, which a powerful kinsman enjoyed, and it was not till 1230, that Simon, the second surviving son, obtained a pension of 400 marks from the English treasury, until he should receive the earldom of Leicester. Probably it was understood that an English earldom would never be granted to a vassal of the French crown, for the brothers entered into a family compact by which Almeric was to renounce all claims on the English possessions if Simon were admitted to do homage for them, while Simon was to give up any claims he might have against the French property.¹ It speaks

moneys the same earl owes us." Patent Rolls, p. 68. Aug. 27, 1214, the king orders a quittance to be given to the archbishop of Bordeaux for the 20,000 solidi he had become surety for in behalf of Simon de Montfort. Close Rolls, i. p. 171. July 21, 1215, John commits the charge of all count Simon's lands to Ranulph of Chester, "*custodiendam ad opus ejusdem Simoni*." Patent Rolls, p. 150. Cf. Close Rolls, i. p. 326. In October, 1217, Ranulph is ordered to transfer ten knights' fees of property to the dowager countess of Leicester, earl Simon's mother-in-law. Close Rolls, i. p. 339. In July, 1218, the death of earl Simon being heard of, William de Cantelupe is ordered to let Stephen de Segrave have full seisin of his hereditary lands, the said Stephen being further to answer for the revenue of those lands to the exchequer. Close Rolls, i. p. 366. Probably, the importance of the trust to such a man excited jealousy. In August 26, 1218, the bishop of Winchester receives the custody of "the land which was

earl Simon de Montfort's." Close Rolls, i. p. 369. In the Testa de Nevill (temp. Hen. III., date uncertain, but before 1226, and probably before 1219) the honour of Leicester in behalf of Simon de Montfort is mentioned as a ward in the king's hands (p. 36), and we learn incidentally that earl Simon had received some of the Norman escheats (p. 81). Whether the earl of Chester had been deprived of the custody of the estate, or merely gave it up during his pilgrimage to Palestine, 1218-1220, I cannot ascertain, but the younger Simon seems to have done homage for the honour of Leicester in August, 1231 (*Excerpta e Rot. Finium*, i. p. 217), more than a year before the earl of Chester's death, Oct. 28, 1232. Wendover, iv. p. 256. It results, anyhow, that the elder Simon was never considered to have lost his dignity of earl, and that a heavy fine was the immediate cause of his absence.

¹ Almeric's petition rehearsing this compact was dated February, 1232; but the matter must have been sub-

well for the justice then done in the king's council, that a young stranger, with no better claims than right, and perhaps that he had espoused the English interest in France, was easily admitted to an inheritance¹ which many must have coveted, and which might have been refused on colourable grounds. Earl and high steward by ancestral right, though the honours seem to have been withheld for a time, De Montfort presently aspired to an alliance with the throne, and won the affections of Eleanor the king's sister, and relict of the second earl Marshal. Although the lady had taken a vow of chastity, the king's favour removed every obstacle, and Henry himself gave her away at the altar of St. Stephen's chapel (Jan. 7, 1238), keeping the marriage secret lest the Church or the baronage should object. In fact, the cry of sacrilege was at once raised, and the earl of Cornwall, at the head of the angry baronage, coupled his indignation

ject of negotiation before, as Henry speaks, in April, 1230, of an understanding with Simon. Royal Letters, i. p. 362. Nangis (vol. i. p. 192) ascribes Simon's going over to England to a quarrel with the queen dowager Blanche. But a passage quoted by Dr. Pauli (Simon von Montfort, s. 30) from Alber. de Trois Font., 1237 (Bouquet, xxi. p. 619), seems to show that Simon's disfavour at the French court arose from his position in England as a noble and court favourite. Accordingly, he was forbidden two marriages—one with a daughter of the count of Boulogne, and another, in 1237, with a daughter of the count of Flanders.

¹ The honour of Leicester, that is, the lordship or fee of the earldom, was granted in August, 1231; and the inheritance in Hampshire, Dorset,

and Wilts was restored at the same time. Royal Letters, i. p. 401. Apparently Simon's homage was taken in behalf of his brother who formally resigned his claims to the earldom at Westminster in April, 1232. New Rymer, vol. i. part i. p. 208. Matthew Paris, it is true (Hist. Major, p. 483), followed by Dr. Pauli, dates this resignation 1239, but the deed itself declares that it was in the sixteenth year of the reign; the signature of Richard, earl of Cornwall, would have included the title of Poitou in 1239, and in that year Almeric was absent on a crusade. That investiture with the earldom was delayed till February, 1239, after the legitimization of his marriage, is not very wonderful. Quarterly Review, No. 237, p. 30.

against this last insult to himself with a demand for the redress of public grievances. The king, deserted by all but the aged earl of Kent, whose loyalty no injustice could shake, was compelled to temporise, and agreed to submit to the decision of a committee of the barons. It was thought generally in England that some great constitutional compact, such as Magna Charta had been, might have been ratified; but before anything was effected, Simon de Montfort made his peace with the earl of Cornwall, and this and another like transaction with the earl of Lincoln, who had procured his daughter's marriage to Richard de Clare by royal favour, threw suspicions of underhand dealing on the chief of the opposition which were never obliterated. The question of reform died quietly away. It was otherwise with the marriage of Simon de Montfort, which was generally looked upon as cancelled. In this extremity the earl went in person to Rome and solicited a dispensation from the pope. As he had procured the emperor's interest and spent money freely, making the king surety for part of the sums promised, he was able, after a few months, to return in triumph and claim his wife. Theologians were not wanting in England to regard the marriage as not legitimated even by a papal dispensation; but they were gradually silenced by De Montfort's reputation for sanctity.¹ He was, indeed, the model gentleman of a crusading and scholastic age; he fought with credit in Palestine (1240, 1241), his hand was heavy upon the Jews of his estate, and he was the friend of Grosseteste, under whom he placed his children for education, and of the learned

¹ Paris, *Hist. Major*, p. 471. Grosseteste wrote to console him, and his letter bears incidental evidence to De

Montfort's high character even at that time. Grosseteste, *Epistolæ*, pp. 243, 244.

Franciscan, Adam de Marsh.¹ The fault of his nature was an impatience of all opposition, that betrayed him at times into violence or cruelty,² but it was coupled with a stern hatred of disorder in king or baronage. Never man was more instinctively accepted by his fellows as a born ruler; in Palestine his brother crusaders petitioned that he might be made governor of Jerusalem; the French lords offered him the regency of their kingdom; and having rejected the proposal, he lived to have even ampler powers thrust upon him a little later by the English baronage. The large-minded statesmanship which discerned and developed the germ of popular rights has obscured the more vulgar merits of the general, but he had the instincts of war and the eye of a tactician. Such a man, devout and loyal, might have seemed the natural support of his kinsman, the king, whose superstition and weak affectionateness were the sole virtues that even flatterers could praise. Fortunately for England, Henry was capricious in his loves, and not two years after he had risked his kingdom to promote De Montfort's marriage, took offence that the money promised to Rome, and for which his name had been pledged, remained unpaid, and expressed his anger so roughly that the earl left the kingdom.³ A few months later the easy prince had forgotten his anger, and was ready to receive De Montfort again into his intimacy, but the earl had learned the value of the royal

¹ Grosseteste, *Epistolæ*, p. 33. *Monumenta Franciscana*, p. 110, et passim. From an amusing letter of Adam de Marsh's we learn that the countess did not always live peaceably with her husband, and was immoderately fond of dress. She also gave occasion for scandal, "by

unbefitting conduct disgracing her position," which made Adam de Marsh blush. *Mon. Fran.*, pp. 294, 295, 299.

² Compare Grosseteste, *Epistolæ*, pp. 141-143. *Political Songs*, pp. 61, 66, 70.

³ Paris, *Hist. Major*, pp. 497, 498.

favour, and took up his position henceforth apart from the court.

Yet, were we to test Henry's government only by its laws and by the state of trade and agriculture, we should assign it a high place in the annals of English history. In the council held at Merton, shortly after the king's marriage (Jan. 23, 1236), several substantial reforms were carried or discussed in a way that speaks well for the intelligence and fair dealing of the baronage. Widows deforced of their dower were allowed to recover to the full extent of their loss against the deforcer, who was further to be in the king's mercy, that is, liable to redeem all his personalty by a customary fine ; and by another provision their right of bequest was extended to the year's harvest. Any man guilty of violent disseisin after judgment in court against him was to be imprisoned till he could agree with the crown on a composition. These were provisions for the weak against the strong. Another enactment shows that the rights of the weak might sometimes be enforced to the public detriment. It was complained that the under-tenants of great lords objected to the constitution of new fees on the ground that their rights of commonage were thereby impaired. This, if maintained, would practically have kept all England in the *status quo*, the waste to remain waste to all time. It was enacted that new fees might be constituted wherever it could be done without depriving the tenant of his right of way, or of sufficient commonage. An inquest was to decide what was sufficient in all cases of dispute. On the game-laws no decision was arrived at, the lords wishing for the right to imprison poachers, and the crown very properly refusing. A regulation that interest on a debt should not accrue during a

minority, and another against marriages to the heir's disparagement, are renewed from Magna Charta. It was now, however, recognized that the heir might decline a marriage offered by his guardian. Only in this case, on ceasing to be a minor, and receiving his estates, he must pay damages to the amount of the sum offered for his marriage.¹ But the most momentous question of the time, in its remoter consequences, was the king's proposal that the practice of canon law, by which marriage at any time legitimated the children, should be substituted for the practice of common law, by which only children born in wedlock were legitimate. The narrow practical point on which this turned was whether writs of bastardy should be special to inquire whether the child was born before or after marriage, or general, to ask whether bastard or not.² If the latter formula were adopted the ordinary would of course be guided in his answer by canon law. The bishops had proposed the change. It was for their interest to avoid the clash of rival jurisdictions and to introduce the law of which they were the authoritative expounders. But all the earls and barons answered with one voice, "We will not change the laws of England, which have been used and approved down to this day." The victory was decisive, and fifty years

¹ "For the marriage of him that is within age of mere right pertaineth to the lord of the fee." Statutes of the Realm, i. p. 3.

² In Glanville's time the writ, while it asserted the common law, was clumsily bifurcate. "R," claiming land, "has no right, as W. says, because he is a bastard born before the marriage of their mother. And since it does not belong to my

court to enquire into bastardy, I send them unto you." Glanville. repudiates the canon law heartily, but it is easy to see that a bishop like Grosseteste might have answered such a writ, "born before the marriage, and not a bastard," or simply "not a bastard," in spite of the prenuptial birth. Glanville, lib. vii. cap. 14.

later the danger of any change Romewards had passed away with the growth of national self-respect. But for the moment the clergy were furious. Even the apostolical Grostête so far forgot himself as to declare that any princes or judges who obeyed the law would do so "in open rebellion to God the Father, and holy mother Church, to their own perpetual damnation, and even to the temporal ruin of their office."¹

But nobles and prelates were united in indignation when the king next year petitioned privately for a visit from a papal legate, in the hope of partly retrieving his authority, and of setting aside the influence of his brother and Gilbert Marshal. The request was granted, and Henry went down in person to receive the nuncio, cardinal Otho, when he landed (June, 1227), bowed down to his very knee, and reverently escorted him to London. Otho soon acquired an absolute ascendancy over the devout monarch's mind, and the king seemed to glory in accepting the worst incidents of John's vassalage, and professing to do nothing without the legate's consent. Simon de Montfort, then a royal favourite, incurred much of the unpopularity that had nearly ruined him a few months later, by seeming to support the cardinal.² But in many respects Otho acted moderately and well. He refused many of the gifts offered him; appeased the feud of North and South, which had lately turned a tournament of barons into a battle-field; and arranged some difficulties with the king of Scotland. His constitutions for the English Church were sensible and temperate; and his attempt to abolish pluralities, which were chiefly enjoyed by bastards of noble blood,

¹ Grosseteste, *Epistolæ*, p. 94. The whole letter, pp. 76-94, is most interesting, as containing the views of a

high churchman of consummate ability on the subject.

² Paris, *Hist. Major*, p. 446.

was deserving of all praise, though it did not succeed. The evil was, in fact, too rank to be remedied; the threatened beneficiaries were said to meditate assassinating the legate; and the bishop of Worcester told him openly that it would be hard to deprive old men of the means of giving hospitality, and dangerous to meddle with the young. Otho agreed to refer the matter to the pope. It was so effectually reported by those who disliked taxation and dreaded reform, that Gregory in alarm recalled his legate, who only obtained leave to stay on by procuring a royal letter, with the signatures of earl Richard and all the bishops, requesting that he should remain. He contributed largely to the re-establishment of peace (1238), when the barons took up arms upon Simon de Montfort's marriage, working upon the king's mind by threats, counsels, and prayers. An untoward accident at Oxford had nearly cost him his life. Dreading poison on his unpopular mission he had made his own brother cook; and the Italian, whom the scoffing Oxford masters nicknamed Nabuzardan,¹ provoked by the disorderly rush of a crowd of students into his kitchen, emptied his saucepan in the face of one of them, a poor Irish chaplain, who was asking charity. A Welshman in the crowd instantly shot the insolent foreigner down, and the legate, fearing for his own life, fled, first to a church tower and then by night out of the city. He was not timid without cause, for a mob of infuriated clerks was searching for him with angry cries of "usurer," and "simoniac." The outrage received prompt punishment. The chief rioters were carted off like felons to London; and Oxford was laid under an

¹ Paris, Hist. Major, p. 470.

interdict, which was only removed by all its scholars going barefoot to the legate's residence in London to implore pardon. A little later we find Otho holding a chapter of the Dominicans in London, and reforming their statutes. But no pastoral cares obscured the great duty of collecting funds for Rome. Now he absolved crusaders from their vows; now he taxed the clergy from a tenth to a third of their revenue; his agent, Rubeo, the pope's kinsman (1240), did not even spare fraud, and procured money by exhibiting false lists of subscriptions received. Appeals to the king were dismissed with angry threats. Appeals to Rome were tried and were ineffectual, as Gregory was in the crisis of his struggle against the emperor. All the more did sympathy grow up in England for the great prince, their king's brother-in-law, in whose ranks Englishmen were fighting, and whom English gold was yet taken to destroy. The documents in which Frederic answered the papal sentence of excommunication were eagerly circulated. Otho was sensible of the bitter feeling against his cause, and himself as its representative, and only consented to stay in the country at the urgent request of the king, who feared to lose his support. The bishops refused him any allowance for his expenses, and he was compelled to impose a tax by virtue of his legatine authority. It was only after one refusal, and through the fault of the primate, who wanted to win a cause against the monks, that Convocation at last agreed to give the pope himself a fifth. Edmund presently expiated his mistake by quitting the kingdom in disgust and going into voluntary exile, from which he never returned. At last, when the clergy declared they were almost beggared, the legate announced his summons to a general council, and de-

manded a viaticum (1240). A groaning synod consented to a fresh tax, and the legate stayed on. When he actually departed, in the next year, escorted by the king and court, with trumpets, to the coast, it was said he had drained England of more money than he left in it.

For a short time there was a respite. But in 1244 Innocent IV. sent over a new collector, one Martin, a cousin of his own, without the title of legate, but with greater powers than even legates were accustomed to wield. He could excommunicate and suspend, and stop all promotion to benefices, till his orders were complied with; and it was said that he brought with him blank forms of censure or presentation to be filled up at his will. He was doubly hated in the country, inasmuch as he grasped and gathered with both hands for himself. Even the king, who till now had been in partnership with the pope to plunder the Anglican Church, was startled at the complaints that arose from every side; and his indignation did not diminish when he learned, by inquiry in every county, that the pope derived 60,000 marks a year, or as much as the whole royal revenue from the kingdom.¹ Perhaps, too, he was a little stung by the remonstrances his brother-in-law, Frederic II., had lately addressed to him: bidding him stop the degrading export of treasure, and let the emperor release England from its tribute. Henry, accordingly, sent Fulk Fitz-Warenne to hint to the obnoxious collector that he had better leave the kingdom. Fulk discharged his mission in the spirit of the baronage and sternly bade the Italian "begone out of England." The startled collector asking if he spoke in his

¹ Matt. West., p. 320. Cf. Paris, Hist. Major, p. 859, and see Appendix A.

own name, was answered that he spoke in the name of all the armed lords at Luton and Dunstaple. "Be well advised: if you tarry till the third day, you and all your company will be cut in pieces." From the presence of the blaspheming baron, Martin hurried to take counsel of the king, who characteristically denied any part in the message; but expressed his belief that the barons would keep their word. He even answered a request for a safe-conduct and convoy with an imprecation that the devil might escort him to hell. The council interposed, and one of the marshals of the palace was assigned to conduct the trembling man to Dover (July 15, 1245). He left a sting behind in the shape of a deputy; but for a time his Italian nominees and the French usurers, who attended every papal collector to advance money to his victims, went into hiding, or stole out of the kingdom. It was not the first check the pope had received. He had lately hinted, through some of his counsellors, that he was well disposed to visit his faithful English, and see London and Westminster. Henry would have answered with an invitation, but his council persuaded or forced him to reply, that the country suffered too much from the pope's emissaries to endure his presence.¹ Nay, more, at the council of Lyons, in this year, the English proctors made a spirited speech denouncing the oppressions of the realm, and demanding redress. From the importance they attached to procuring a surrender of John's charter of vassalage, it is evident that they ascribed a great part of their present evils to the deed which gave the pope a perpetual right of interference in temporal matters. Unhappily they were not allowed

¹ Paris, *Hist. Major*, p. 655.

to make common cause with the emperor, and so intimidate the curia. In default of this Innocent deferred answering them till the council had excommunicated his enemy, and then forced the English bishops to subscribe a new copy of the charter, the old one having lately been burned by accident. The lay proctors were less pliant, and answered the refusal of reforms by a threat that no more money should leave the kingdom. Even Henry flushed up for once with the spirit of a king, and vowed he would never again pay tribute under that name to Rome.

Accordingly, in 1246, the king, the baronage, the bishops, and the abbots addressed separate letters to the pope complaining of the intolerable oppressions that went on daily. "And unless," the nobles said, "king and realm be speedily released from the burdens laid on them it will behove us to place a wall before the lord's house and the franchises of the kingdom. . . . Yea, unless the evils aforesaid be speedily redressed, let your Holiness be assured, that such danger impends as well over the Roman Church as over our lord the king, that it may be hard to remedy it."¹ Nay more, the king ordered by public proclamation that no money should be subscribed or sent to the pope. But a threat of interdict, and, it was said, the evil influence of his brother, induced him speedily to recall this resolution.² As, however, in the state of public feeling it was out of the question to send legates, two mendicant friars, in 1247, procured a licence from the king to wander

¹ New Rymer, vol. i. part i. pp. 265, 266.

² Paris, *Hist. Major*, pp. 708-715. Paris mentions a monstrous rescript from the pope, about this time, conferring on himself all the property of clergymen dying intestate, to the ex-

clusion of the natural heirs and of the crown. It is one proof among many how incompatible the binary jurisdictions were. The pope, however, was speedily forced to recall it. Paris, *Hist. Major*, 707, 710, 724.

through England and collect alms for the pope. Under this safe-conduct they traversed the country with sumptuous equipages, exhibiting papal briefs and demanding money. They found opposition where they probably least expected it. Grostête, the zealous churchman and special patron of the minor friars, had a just view of his duty to his diocese and the state, and flatly refused to contribute the enormous sum of 6000 marks demanded of him without authority. Both here and at St. Alban's, where they received a similar answer, the collectors seem to have given way sullenly, but at once before resolute opposition. Yet a few years later (1252) Grostête calculated the amount drained from England at 70,000 marks, or even more than the estimate given in at the council of Lyons. He himself was troubled in his diocese by the consequences of this money-getting. He desired to abolish the impropriations by which monastic and even military orders enjoyed the profits of benefices and discharged their duties by non-resident deputies. The offenders purchased charters of confirmation from the pope, and Grostête was dismissed with angry words, by one account, with illusory promises by another, when he pleaded his cause in Lyons before the assembled conclave.¹ He held that all men enjoying benefices or teaching in schools ought to receive priests' orders, and tried to compel them (1252); they answered by clubbing their money and purchasing a dispensation from the pope.² Next year the bishop was required to present

¹ Paris, Hist. Major, p. 773, represents the pope as giving way to a burst of passion; but this writer is not quite reliable when he discusses the court of Rome. Adam de Marisco, who accompanied Grosseteste, wrote

a very cheerful account of the reception given him by the pope, and of their hopes of reform. *Monumenta Franciscana*, pp. 376, 627.

² Paris, Hist. Major, p. 833.

a nephew of Innocent's to a canonry in Lincoln cathedral. He wrote back, positively refusing to comply; but softening his letter by an explanation that his contradiction was not a rebellion, but an act of filial reverence.¹ The pope was furious when he received his son's letter, comparing the late appointment to the sin of Lucifer; but Grostète's reputation was such that the cardinals advised that the matter should be let drop. Unhappily, a few months later, the great Englishman died. His last hours were occupied with lamenting the disorders of the kingdom and the sufferings of the Church; he broadly coupled the pope with Anti-Christ,² and the comparison was treasured and accepted by men who like himself would have thought schism damnation. The mediæval belief in the omnipotence of the papacy was curiously contrasted with the keen observation and bitter censure that branded an unworthy pontiff.

Henry's foreign policy, if his impulses can be dignified with that name, was not more glorious than his government at home. In 1241 the king of France invested his brother Alfonso with the countship of Poitou. There was no question that Poitou was mostly in the hands of the French; but as the title in question was among those borne by Richard of Cornwall, its assumption might be regarded in England with some natural displeasure. As, however, the earl was absent in Palestine, and the English baronage disinclined to foreign expeditions, the matter would, in all likelihood, have been passed by quietly, had not the queen dowager taken it up as an insult to her dignity. Although the count De la Marche had actually performed homage to

¹ Grosseteste, *Epistolæ*, pp. 432-437.

² Paris, *Hist. Major*, p. 875.

the new count of the province, she persuaded him to renounce it with injurious words, and at the head of an armed and menacing escort. He even burned down the house which had been assigned as his quarters in the town where the count of Poitou was holding his Christmas court. Louis, of course, could not overlook this insult to the royal dignity; and the count De la Marche accordingly applied for succours against the overwhelming power of France to the king of England and earl Richard, who returned about this time. But the request for aid was limited to the king and his brother's presence, and a subsidy: the count thought, perhaps not unjustly, that the English troops would be of more hurt than use—their courage being more than balanced by the offence they always gave their allies. The English barons assembled in parliament at London (Jan. 28, 1242) of course viewed the matter differently. They were furious at the apparent slur on their warlike efficiency; and they must have seen that if the provinces and England were no match for France, the provinces alone would be even less capable to resist. They complained of the heavy burdens under which the state groaned; and since the king pleaded that he had sworn to assist his father-in-law, they denied positively that the crown had any right to make treaties without the assent of the baronage. Above all, they distrusted the Poitevin promises of support, and utterly disbelieved in the possibility of conquering any part of the French provinces. They even committed their opinion to writing as a constitutional document. Nor did they fail to recapitulate the many taxes already raised, some of them upon conditions still unfulfilled, and the frequent violations of the great Charter. They recommended that an envoy should be sent to the king of France,

and would only promise assistance if he should appear to have broken the truce and to refuse satisfaction. At last, being plied separately by the king and his brother with entreaties, many of them gave way, and an aid, irregular or not, was levied,¹ perhaps on the understanding that diplomacy should be tried,² which enabled Henry to set sail for France with thirty casks of silver. The archbishop of York was left regent of the kingdom.

France and England now prepared for war; and it was remarked upon as an unheard-of aggravation of hostilities in France, that the English merchants who were quietly trading in that kingdom were seized, and their goods confiscated, before war was formally proclaimed.³ Reprisals were of course taken in England, where the practice, condemned by *Magna Charta*, had, however, been naturalized by John. The unusual severity displayed by Louis was no doubt partly a result of changed times, and more extended commerce, presenting greater temptations to the spoiler; but it may also have arisen from the fear he seems to have entertained lest Henry should become the chief of a league uniting the sovereigns of Arragon and Castile, and the

¹ Paris seems to imply (*Hist. Major*, pp. 582, 583) that Henry only obtained benevolences; but the Continuer of Florence of Worcester (ii. pp. 178, 179) says that he imposed a scutage of 40s. the fee; and Pauli quotes the Patent Rolls (26 Pat., i. 7) about an "*auxilium regi ad pas-sagium*." (*Gesch. v. England*, iii. s. 647).

² March 8th, the very time when the king was soliciting an aid he issues letters to the barons, declaring that he has promised his brother in

good faith not to infringe the truce with France, except for just cause; and that if it is broken Richard may return to England without fear of the king's displeasure. In June Henry writes to the barons and says, that at the time of his sailing over he thought war might be avoided. *New Rymer*, vol. i. part i. pp. 244, 246.

³ "*Lædens enormiter in hoc facto antiquam Gallie dignitatem, quæ omnibus profugis etiam et exulibus præcipue pacificis tutum asylum præbuit*." Paris, *Hist. Major*, p. 585.

count of Toulouse, against their powerful neighbour.¹ For the same reason he pushed on operations and reduced Frontenay, near Niort, the chief fortress of De la Marche, while he yet offered Henry's envoys an extension of the existing truce for three or even six years, without the usual fine. It was even said that, under the influence of respect for his father's covenant at London (1217), he offered to restore Normandy and Poitou, with reservation of his own suzerain rights;² but so vast an offer is scarcely credible, even of the most righteous of kings, or its refusal, of the most foolish. It is certain that, on the question of punishing De la Marche's rebellion, Louis would hear of no compromise, and Henry accordingly declared the armistice at an end. The hostile armies confronted one another on opposite banks of the Charente at Taillebourg. Henry had wasted six days there in inactivity, and lost heart when he saw the town on the north bank occupied by a far more numerous host than his own. After an angry altercation with the count De la Marche, who denied that he had ever declined the support of English troops, the earl Richard, habited as a pilgrim, was deputed to demand an armistice of a day (July 20). The request was readily granted, partly because it was Sunday, and Louis shrunk from desecrating the day; but chiefly because the earl had ransomed so many French captives in Palestine, that the generous French barons welcomed him as a brother. During night the English army broke up in a disgraceful flight, and the king never drew rein till he reached Saintes. The French followed hard on his traces, and were only driven back by a desperate and

¹ Paris, *Hist. Major*, p. 387. Cf. *Political Songs*, pp. 36-41.

² Matthew Paris is the only authority for this; *Hist. Major*, p. 587.

very even skirmish from completing the royal rout on the same day. The count De la Marche had headed the action, and exposed himself freely in it, to clear his reputation from the stain of treachery. But he saw that the English fortunes were hopeless, and made terms privately with the king, on condition of giving up all claim to the castles already taken from him, and holding the rest of his estates by favour of the crown. He was at once sent southwards to occupy the count of Toulouse. Henry now retreated hastily upon Blaye, fearing to be invested at a distance from the sea in a hostile or doubtful country. For nearly fifty miles the roads were strewn with the baggage of the English army, and the very ornaments of the royal chapel were lost, though the relics were saved. Seldom had rout been more ignominious; and but for a sudden illness which arrested Louis, he might probably have swept the invaders into the sea. As it was, Henry took an early opportunity of falling back upon Bordeaux. He himself declared afterwards that he had waited a fortnight vainly offering battle; and the story is not incredible, if he knew that Louis was in no position to attack him. In fact, the French army gradually wasted away, its numbers and imperfect commissariat intensifying the diseases common in camps to pestilence. It was said, too, that the men of the country had poisoned the wells; and we may easily believe that they withheld supplies which would not be paid for. Altogether eighty nobles and twenty thousand nameless men were computed to have died in their host. But the reduction of Poitou had been accomplished none the less. The archbishop of Bordeaux having first drained the king's coffers by protestations of fidelity, deserted to the stronger side, and was scornfully nicknamed "Cain" by his new allies.

Hertold, the governor of Mirabel, finding that his castle could not sustain a siege, applied to the king of England to know if he might expect support. Henry mournfully confessed his inability, and told his captain to make what terms he could. Hertold bowed to necessity, and surrendered his castles into the enemy's hand, saying, with soldierly bluntness, that he regretted the issue of the war. Louis respected his fidelity and continued him in his seneschalship.

Henry did not profit by the breaking up of the French army. The chief nobles, who from the first had disliked the expedition, were now anxious to secure a safe return while terms could be made, as the sea was covered with French cruisers. Henry allowed them to treat with the king of France; and Louis, against the wishes of his court, who desired to follow up their successes, gave free passage to all who wished it through his dominions. Even Richard of Cornwall was among those who left the camp in disgust—the king having deprived him of the governorship of the province with no better reason than that he now wished to reserve it for his eldest born, Edward.¹ The northern barons incurred special disfavour, probably because they would not promise to return, as their money was exhausted; and the king found means to punish them by fines and forfeitures. Simon de Montfort and the earl of Salisbury were the only men of importance who stayed with the army; and De Montfort's presence, however valuable in itself, endangered the relations with the count of Toulouse, the ancestral enemy of his house. A scutage was levied in England,

¹ Paris, Hist. Major, pp. 595, 596. Later on Henry consented to indemnify his brother out of the Eng-

lish escheats for his interest in the government of Gascony. New Rymer, vol. i. part i. pp. 253, 254.

and supplies of men, money, and provisions were sent out, to the great loss of the realm; but the men were wasted in costly inactivity, and the gold only enriched the French provincials, who exhausted every intrigue to keep so valuable a sovereign among them. At last, (April, 1243), just as the season for military operations was beginning, a truce for six months was concluded which ripened into a peace for five years, chiefly, no doubt, through the strong desire of Louis to adjust all difficulties that might keep him from his meditated crusade. Thus the war between the two countries virtually ended—the English baronage not caring to renew the unpromising struggle, and Louis, from love of justice, respecting the English rights, and shrinking almost timidly from hostilities with a prince whose masses and alms fought for him. Sixteen years, however, elapsed before the conditions of a durable peace could be adjusted—Henry demanding an equivalent for the cession of Normandy, Maine, Anjou, and Poitou. But in 1259 it had become the interest of all parties in England to conciliate Louis, and De Montfort and his associates held the reins of power. The English provinces in the south were rounded off with the districts of the Limousin, Perigord, and Querci; and Henry renounced the obnoxious claims, and did homage to the crown of France as duke of Guienne and peer.¹

But even when there was no war on the side of France the English provinces were a constant source of expense, from the need of keeping order and quieting the incessant feuds of nobles and towns. Besides this, there was a special cause of complaint against the king. When Henry, some years before, had deprived his

¹ New Rymer, vol. i. part i. pp. 389, 390.

brother of the earldom of Gascony, the barons and knights of the province had at first refused to transfer their homage, and had been bribed into acquiescence by a promise of thirty thousand marks, which had never been paid. In 1248 the situation became so urgent that Henry summoned a full parliament to London, and demanded extraordinary supplies. The baronage answered by exposing the ruinous vices of the government, especially the infringement of the charter, and requesting that the king's council might no longer be composed of foreigners. Henry resented this as an outrage on his dignity, and having procured a supply by the sale of his jewels, prevailed on Simon de Montfort, who had been largely employed in his service since the French campaign, to take the governorship of Gascony and Guienne for six years. The earl displayed his wonted ability, reduced Fronziac and Aigremont, and sent the chief rebel, Gaston de Béarn, prisoner to England, where, by the intercession of the queen, whom he called cousin, he was speedily restored, though on strict terms, to his possessions. De Montfort went on his way none the less, storming castles, hanging disturbers of the peace, and depriving those whom he could not apprehend of their estates. His zeal in the king's service is beyond dispute, and when money was doled out insufficiently from England he provided for the expenses of his campaigns by the sale of his own timber. It was also remembered afterwards, and it may well be believed of so good a soldier, that he kept strict discipline, and allowed no unnecessary or barbarous ravage. But for the time his severe government appeared intolerable, not only to the nobles, whose licence he curbed, but to the very merchants of Bordeaux, who thought peace and order dearly pur-

chased with the sacrifice of practical independence and the enforcement of taxation. They had desired an ally, not a governor. A deputation headed by their archbishop, a notorious traitor, accused De Montfort of extorting money from the province for his own emolument. A graver charge was, that he had seized and imprisoned men who, like William of Aigremont, had come peacefully to a meeting of the estates; but the earl's answer to this is not known.¹ Henry sent a commissioner to report on the true state of affairs, and the earl, furious at the implied distrust of his rule, collected a large army of foreign mercenaries, and waged such vigorous war throughout the province that, it was said, only the profits of their English trade retained the Gascons in their allegiance. They again appealed to the king, demanding that their envoys might be confronted with the earl; and De Montfort was accordingly recalled to answer for his conduct. The general feeling of the country, represented by the earls of Cornwall, Gloucester, and Hereford, and by many bishops and barons of less note, was strongly in favour of the brilliant, capable man with no worse fault than that he had dealt a little sternly with disloyal foreigners, whose misfortunes were a source of secret pleasure to every true Englishman. On the other hand, Henry, as king, had divided duties and interests, and may be forgiven if he was influenced by the declaration of the Gascon deputies, that they would never again obey "the exterminating count." His government, they said, was one long campaign

¹ Raymond, viscount of Soule, however, excused himself from having attended the earl's court, on the ground that he, like many others in Gascony, was afraid to do so without

a safe-conduct. He seems to have been treated in consequence as if in open rebellion. *Royal Letters*, ii. pp. 74-76.

against men who had been on friendly terms with every former viceroy; and who now saw their castles seized, or were themselves imprisoned out of the province or hanged. De Montfort's answer was that of a proud man and inexorable judge, conscious of his own rectitude. If he punished men who had been admitted to terms by former governors and had renewed their old offences, he was only acting as God did, who was juster than any man, and who avenged his honour on all transgressors. But what need was there to argue the matter against perjured traitors, whose falsehood the king in his heart well knew. Finally, he professed himself willing to give up the government, if Henry would reimburse him the expenses which had ruined his earldom. Henry was so irritated by this demand on his empty treasury that he answered hastily, that he was bound by no promise to a false traitor. The earl gave him the lie to his face, and added, that if he were not king he should pay dearly for the insult he had uttered. He went on to taunt him with his superstition, and asked how he could reconcile his shameless breaches of faith with the penitence demanded from all who confessed themselves. The king answered bitterly that he had never repented any act of his life so surely as the favour he had shown to the earl of Leicester in making his fortunes. At this point the friends of either side interposed and the disgraceful scene terminated.¹

Perplexed and helpless, Henry allowed his too power-

¹ Paris is our most life-like and full authority for these matters, pp. 836-839. His account is substantially confirmed by a long letter of Adam de Marisco, (*Monumenta Franciscana*, pp. 122-130), who adds that after leaving the council De

Montfort intimated to the king, "by letters patent," that he was prepared to obey the king (i.e. probably to carry out his wishes), as long as it was for the interest of his honour and profit. It is a curious instance of an appeal to public opinion.

ful subject to return to Gascony, perhaps with an undefined hope that something would occur to remove him from life and politics. But we need not ascribe it to treachery, or to any other causes than a weak character, and even a wish to do well by his subjects, that Henry presently declared his young son Edward, earl of Gascony, ordered the natives to do homage to him, and proclaimed a general armistice. The immediate result, however, had nearly been to cost De Montfort his life, as the prestige of royal authority was at once withdrawn from him, and his enemies banded together in overwhelming force to destroy him. He succeeded, however, in escaping into France, where he watched the course of events. It soon appeared that Gaston de Béarn and his associates meditated transferring the country and their allegiance to the king of Castile. The alarmed towns implored Henry to assist them. Under pretext of a crusade, and by again confirming the charter, Henry succeeded in collecting money for an expedition, and took the field with overpowering force, and with the advantage of fighting, as it were, in a holy war, all his enemies being excommunicated for detaining a possible crusader from Palestine¹ (August 6, 1253). The castles were speedily reduced, but as the chief offenders were readily pardoned, or only held to ransom, while the soldiers destroyed the vineyards, which were the great wealth of the province, the Gascons were soon as discontented as ever, and withheld all provisions from the royal camp. Henry's most solid success was in contracting an alliance with his dangerous neighbour the king of Castile, who promised his sister's hand for prince Edward.² A design to reconquer

¹ New Rymer, vol. i. part i. p. 292.

² Negotiations on this subject had been begun as early as May. New

Poitou failed through the precautions of the French government, who garrisoned the province with their own troops. Before long he was glad to invite De Montfort back into his service. The earl had lately been offered the seneschalship of France, Louis being then absent in the Holy Land, and the queen dowager having died. Tempting as the offer was, especially to a disgraced man, he had refused it, lest it should seem evidence of disloyalty. He now, partly, it was said, through Grostête's influence, agreed on easy terms to be reconciled to the king. His presence, and a vote of men and money from the reluctant English parliament, enabled Henry in the spring of the next year to pay a costly visit to Paris, where his largesses and devotion procured him as much respect as his character under any circumstances could command.

Of what was possible in the kingdom during this long period of misrule some idea may be gathered from a single incident. In 1249, two merchants of Brabant complained to the king, who was then at Winchester, that they had been robbed by men whom they recognized as in the king's household, and could obtain no redress from the reluctance of English juries to convict their countrymen. Indignant at a charge so nearly affecting his honour, and fearing reprisals from the duke of Brabant, Henry ordered a strict inquiry to be made, and by condemning a first jury to the gallows for withholding their verdict, obtained a full confession of facts long since patent to the country from a second. It appeared that the robbers were recruited from the king's servants, and from men of substance in Winches-

Rymer, vol. i. part i. p. 290. An alliance had also been projected between the princess Beatrice and the king of Aragon's eldest son, but it came to nothing.

ter and Southampton, some of them having fifty or eighty pounds rental, and one, a cellar well stocked with fifteen casks of wine. Altogether, from sixty to seventy were apprehended, half of whom were hanged forthwith, while some of the others seem to have claimed and perished in the duel. The king's servants, when they were taken out to the gallows, sent word to Henry that their death was at his door for withholding the wages due to them. The message was delivered, and extorted a few sighs of unavailing compunction.¹ Of course this was a case of exceptional infamy under strong temptation. But the justice administered by needy officials, anxious to make the most of their opportunities, and certain to evade inquiry if they only oppressed the weak and bribed the powerful, could not in its very nature be good. The justiciary, Henry of Bath, a man of letters and a profound lawyer, was unfortunately induced, it was said by his wife, a woman of good family, to take bribes largely, and adjudge himself estates when he went on circuit. In this way he at last provoked an appeal to the king in council. Henry at first took the matter up warmly, forced the offender to enter into heavy bail, and when he appeared on the day of trial surrounded by a retinue of armed friends, declared him outlawed on the spot. The injured men who had come on invitation to implead the justiciary would at once have taken brutal advantage of the royal licence, had not Henry slunk away from the curia, perhaps alarmed at the tumult his words had provoked, and left matters to be arranged by John Mansel, the justiciary's friend. All was compromised for a fine of two thousand marks, and two years later

¹ Paris, Hist. Major, pp. 760, 761.

Henry of Bath was again justiciary.¹ Yet the fact that the gravest charge against him was that he had once let a criminal out of prison untried for a bribe—a charge which, as we know not the answer, may have been exaggerated—may serve to show that corruption rather than injustice was the crying vice of our judicature in the thirteenth century.

The fiscal history of Henry III.'s reign acquires a disproportionate importance from the fact that almost all the king's offences against law and liberty were occasioned by his perpetual need of money. A better exemplar of all possible forms of mediæval taxation, just or unjust, can scarcely be found than in the twenty years between his marriage and his second return from Gascony. In 1237, he obtained a thirtieth on all personalty from the baronage at the price of again confirming Magna Charta, and on condition that it should be disbursed by special commissioners. The compact was of course violated, and the money lavished on foreign favourites. Next year we find the king living at free quarters on the manors of the see of Winchester, chiefly, no doubt, to force the chapter into an improper election, but yet, as we may infer from complaints afterwards, partly with a view to relieve the royal treasury. In 1239, the birth of a son furnished a convenient pretext for extorting gifts. In 1240, the justices itinerant collected "infinite money" for the king. In 1241, the Jews were forced to pay an arbitrary fine of twenty thousand marks. The unlucky expedition to Poitou (1242) obliged the king to obtain money by alternate

¹ Paris, Hist. Major, pp. 811-815. Foss's Judges, ii. pp. 223-227. Mr. Foss shows that the fine was not en-

tirely paid at Henry de Bathonia's death in 1261, and that the arrears were remitted to his heir.

threats and cajolery, from all who were known to possess it; and as the situation of the army became more and more desperate, other shifts were resorted to, the Jews again fleeced, an arbitrary tallage enforced in London, and personal application made to the religious orders by the king's representatives. The Cistercians, refusing, were punished next year with an unjust prohibition to export the wool which was the chief source of their revenue. It might seem some gain that the seven thousand pounds which had hitherto gone in pensions to the Poitevin nobles were now discontinued, but Henry compensated the involuntary economy by promising gratuities of twenty thousand pounds to his clamorous and faithless Gascon subjects. Even his inglorious return was commemorated by an absurd and costly pageant of welcome which nobles and citizens were reluctantly forced to defray. In 1244, all lands held by French subjects in England were seized to the king's use on the plea that Louis had forced his vassals to choose in like manner between their allegiance to him and to Henry. The difference was that Louis had facilitated family arrangements by which estates were exchanged without material loss. Further, Henry demanded an aid or extraordinary tax, and though the Parliament refused it they consented to pay in advance a scutage of twenty shillings a fee, as the sum which would one day be due when the king's eldest daughter should be married. In 1245, a stringent commission was issued to inquire into all encroachments on the royal forests, and many persons were ruined by its operations. In 1248, all minor resources having proved inadequate to defray the royal waste, Parliament was again applied to. It answered, besides urging the usual grievance of alien counsellors, by

complaining that the purveyance exacted for the king's household was so monstrous and unjust that it seriously affected the home and foreign trade of the country, that wax and silks were taken without payment for the king's charities, and that sees and abbacies were kept vacant while the crown enjoyed their revenues. It is curious to think on what habitual injustice Henry's religion was based, and to observe that, in spite of all wrong, the people never quite lost their respect for a king whose perjuries and robberies were united to a zeal for the Lord's house. On this occasion, however, a grant was refused unless the great officers of state were appointed by the common council of the realm. The king preferred to break up and sell his plate. He observed with indignation that the Londoners were able to buy whatever he brought into the market, and his piety and his spirit of kingship found relief in ordering a fair to be held at Westminster, to the great detriment of London, where all shops were closed, and of Ely, whose usual fair was ruined, but to the immense gain of the rising structure of Westminster Abbey. Next year (1249) new year's gifts were extorted from the leading citizens. But as this could not discharge the crown debts, the king borrowed money, by personal application, from the chief lords, spiritual and temporal, alleging that thirty thousand marks would quit his liabilities. It is probable that he gained part of the money by a promise that the chancellor, justiciary, and treasurer should be appointed in Parliament, for a meeting was convened for that purpose and dismissed with its object unattained, on the plea that the earl of Cornwall was not present. In 1250, the Jews were again fleeced, one of them being compelled to ransom himself with fourteen thousand marks, making thirty thousand in

all that had been taken from him during the reign. Benevolences were also freely extorted from Christians on the plea that the king was going on the crusade, and a convenient plan was adopted by which the king dined with his chief subjects in turn. Once, indeed, Henry played host and invited the Londoners to his table; but when he found that they would not surrender their privileges, he abused them as "base-born tradesmen and clownish citizens who called themselves barons." It reads like irony after this to learn that next year Henry caused a balance-sheet of all his revenues and outgoings since the accession to be drawn up. Probably the result was not satisfactory, for in 1252 he obtained a grant of three years' tithes from the Pope, again on the plea of his crusading intentions, and tried to persuade the English synod to pay him the money in advance. He was met with a resolute refusal; but next year, favoured by the plea of rebellion in Gascony, he carried through the proposal, and got further a vote of a scutage of three marks from the baronage whenever he should set out for Palestine. Courtly prelates seem to have held that the condition was fulfilled when the king landed at Bordeaux, as the rebels were excommunicated for hindering a crusader. The history of the last grant for the war is a little curious. Henry wrote home directing that a Parliament should be summoned to give prompt aid, as he was in urgent need, and his commissioners exhibited the gigantic darts which were launched from the Gascon ordnance (1254). But the truth leaked out that instead of apprehending war with the king of Castile, Henry had already concluded peace, and had sent for his wife and son. Indignant as they were at the subterfuge, the barons and clergy nevertheless promised to aid their sovereign with men and money,

only stipulating that both were to be applied to the purpose specified, and demanding that this concession of service in a foreign country should not be drawn into a precedent.¹

The ordinary revenue of the kingdom seems during this period to have averaged about forty thousand pounds.² It would probably be wrong to assume that Henry's unscrupulous expedients ever added in the long run much more than ten thousand to his income. However large this addition may have been relatively, the sum total does not seem enormous, even if we multiply it fifteen-fold to approximate to modern values, as the contribution of a population of some two millions and a half. We know that, in spite of famine and civil war, numbers and wealth increased steadily during the reign. Yet it was no ignorant impatience of taxation that led our ancestors to refuse supplies perpetually, and at last to appeal to the sword against their sovereign. The amount paid annually into the exchequer represented only a small portion of the burdens on labour and property. The king was merely expected to keep court, to pay his ministry, justiciaries, and ambassadors, to keep his castles garrisoned and in repair, and occasionally to reward a distinguished public servant with a grant of crown lands. The expenses of local justice and police were borne by the districts interested; the national army was a militia that served at its own expense; and the national fleet in time of war was composed of all the private ships that could be impressed. Roads, bridges, and walls were all charges

¹ *Pais, Hist. Major*, pp. 446, 473, 483, 488, 533, 550, 595, 597, 604, 605, 614, 615, 626, 648, 661, 743-4, 748-9, 761, 768, 765, 773-4, 778, 785, 807,

812, 834, 865, 867, 881, 882. *Liber de Ant. Leg.*, pp. 14, 15.

² See Appendix A, p. 208.

on land; and half the burden of the royal household, even in the best times, fell upon the countrymen who lived within reach of the king's purveyors. The large subsidies extorted by Rome from the clergy were, of course, only a per centage of the much larger amount that the nation paid in tithes and first-fruits, and fees of all kinds, to the national Church. Yet the people were so accustomed to contribute, and the uses of wealth were so few then in comparison with what they now are, that, as experience showed afterwards, a brilliant and successful king might count on almost unlimited sacrifices from the devotion of his people. The despondent feeling that the power of France was never to be matched could never have possessed the minds of Englishmen as it did in the thirteenth century, had Philip Augustus and Louis IX. changed thrones with John and Henry. As it was, the nation felt, after Henry's first campaign in Brittany and Poitou, that it was leaderless; its king only the creature of foreign parasites; itself a mere geographical name in Europe. It retained its French possessions by sufferance or accident; and if the Welsh princes were at last reduced to do homage by an exterminating campaign (1245), the early successes of Llewellyn showed that the English arms could only triumph over a divided people. Neither was Henry's the tranquil inoffensive misrule of a prince like Edward the Confessor, who said his beads and left policy to his nobles. The crown was now as strong as it had been weak formerly, and Henry's superstition was prodigal where the Confessor's had been scrupulous. He loved justice for its fines, and religion for its capabilities of ostentation. If the gold wrung from the people's misery did not go to the Virgin and the saints, it enriched the foreign adventurer, the evil

counsellor, or the secret traitor. Perhaps no history affords a parallel of a sixth of the whole royal revenue disbursed in yearly pensions to the nobility of a single foreign province. Nor would it be easy to match the prodigality of a king who, after draining the country by taxes and forced loans, was in debt £200,000, or four times his income for the year, with no other results to show than a few months' campaign in Gascony and a visit to Paris.¹

That the king and his family were unpopular need scarcely be said. In 1238 a daring attempt was made to assassinate Henry and his queen by a man who simulated folly, got himself naturalized about court, and then tried to make his way by night into the royal bed-chamber. Being put to the "*peine forte et dure*," the mediæval equivalent for torture,² he declared himself the agent of a conspiracy in which one William de Marsh was prime mover.³ The wretched tool suffered the death of a felon, and William de Marsh, after some years of outlawry, during part of which he lived as a

¹ Paris, *Hist. Major*, pp. 604, 901, 913.

² "*Vinculis astringunt, arctant angustius*," says Matthew Paris (*Hist. Major*, p. 474), language that seems to imply something like what Britton describes as the penance of prisoners who will not plead, "that they be barefooted, ungirded and bareheaded, in their coat only, in prison upon the bare ground continually night and day; that they eat only bread made of barley and bran, and that they drink not the day they eat, nor eat the day they drink, nor drink anything but water the day they do not eat, and that they be fasten down with irons." Britton, iv. 7. Bracton nowhere

mentions this punishment, however, and it is doubtful how far it was known before the reign of Edward I., there being instances on record where a man who stood mute was hanged. Kelham's note.

³ William de Marsh seems to have suffered as a partisan of the earl Marshal in 1234, when he fines to recover the king's grace, while in August, 1235, he is apparently exempted from the terms granted to his father Geoffrey, as if he had been again in arms. *Excerpta e Rot. Fin. i.* pp. 267, 286. It is noticeable that Paris speaks in one place of Geoffrey de Marsh as first promoter of the conspiracy. *Hist. Major*, p. 584.

pirate on Lundy island, was captured and hanged at London (1242), professing his innocence. In 1241, Henry strengthened the fortifications of the Tower; but, to the great joy of the citizens, the new walls, being badly built, fell down suddenly. Unpopular with the clergy for always joining with the pope to oppress them, Henry, in spite of his piety, was assailed with all the literary virulence of the times, in songs and lays, as "the bitter king," "the enemy of the whole realm, of the Church, and of God."¹ The nobles, besides their graver reasons for dislike, despised the weak braggart who could not manage a horse or order a battalion, yet who, as a French satire expressed it, would boast confidently in council of his intention to take Paris, set fire to the Seine, and roll away the Sainte Chapelle.² The young countess of Arundel once silenced the king by telling him to his face that he was perjured by his repeated breaches of the charter, and that she appealed to the judgment-seat of the most high God against him. But Henry was not shamed into granting her redress. The queen was even more unpopular than her husband, inasmuch as his great crime of foreign favouritism was chiefly incurred through her. When the civil war broke out, she and the earl of Cornwall, who had inclined more and more with advancing years to the cause of royal prerogative, were among the first and the most savagely attacked. Even the prince of Wales, young, handsome, and able, had few friends. The honours and estates unwisely heaped upon him had disgusted all who hoped for them; the earldoms of Gascony and Chester, with

¹ Political Songs, p. 90.

² Political Songs, pp. 37, 67; Paris, Hist. Major, pp. 852, 853.

ten thousand a year, were large endowments even for the heir apparent. Moreover, the imperious unbending character which marked him in later life was repulsively prominent in youth; he quarrelled with his father to redress the wrongs done to some Gascon merchants by the court purveyors, while he alienated the people by the licence in which his body-guard of two hundred foreign mercenaries were indulged. The prospects of liberty in England were never perhaps so dark as under a king who was just good enough to conciliate some sentiment, just weak enough to yield at times, and withal as strong a hater of charters and liberty as his father had been.

APPENDIX A.

THE amount of the royal revenue under John and Henry III. is difficult to fix with precision. As the estimate I have adopted, of £40,000 to £50,000 a-year in all, is very different from that apparently implied in some loose statements of chroniclers, I will give briefly the facts and arguments on which my calculation is based.

Giraldus Cambrensis says that the yearly revenue of Edward the Confessor had been 60,000 marks, and that Henry II. only received 12,000.¹ As, however, he gives as one reason for this decline that so many manors had been granted away by Stephen, and says that Henry II. and his sons made up in accidental sources of revenue what they wanted in substantial income, he is evidently thinking only of the rental from crown lands, and is contrasting this in his own times with the whole income of the crown under the Confessor. Now the fines for the year 1204 under John amounted to £17,300,² succession dues would probably amount to about £2500,³ and £8000 more from lands, would bring up the normal revenue to nearly £28,000. We cannot ascertain with any precision the amount obtained from extraordinary taxes, the offerings made at the king's accession, compositions with towns, and confiscations, but it will be a moderate estimate to take these at £12,000 or £15,000 a-year more.

With Henry III. we get to more definite, but withal con-

¹ Gir. Camb., de Inst. Princ., p. 167.

² Rotuli de Oblatis et Finibus, pp. 197-240.

³ At an average of 21 earls, 225 barons, and 6400 knights, paying £100,

100 marks, and 100s. respectively as reliefs, and taking twenty years for the average tenure of estates. Of course, with an increase in the number of knights' fees the revenue from succession dues would increase.

tradictory statements. Matthew Paris says that in 1245 an inquiry was made into the sums sent out of the kingdom to the pope, and that (not reckoning accidental sources of emolument) they were found to amount to 60,000 marks, a sum which the whole revenue of the crown does not attain to. Matthew of Westminster tells the same story, but says it was just the amount of the royal revenue. Yet in 1252, Grosseteste is represented as saying that the royal revenue was not a third of 70,000 marks.¹ Sixteen years later Wikes speaks of the royal revenue as less than the proceeds of three years tithes' from the clergy.² The yearly value of these, if estimated simply on the taxation of pope Nicholas under Edward I., would be about £15,500.³ The value returned as collected in 1410 was about £10,222.⁴ These differences may be easily explained by assuming that only spiritualities were taxed in 1410,⁵ or that exemptions had become numerous; and therefore, allowing for the difference between 1245 and 1268, and putting aside Grosseteste's statement as either exaggerated and wrong, or as applying only to crown lands and rents from towns, we may perhaps fairly infer that the ordinary revenue of the kingdom was believed in 1245 to be £40,000, or a little less, and in 1268 to be about £40,000, but probably a little more. This would agree very well with the estimate for John's reign, if we add from 10 to 20 per cent. to it for the growing wealth of the country in quiet times, allow for an increment in succession dues from the increase in knights' fees, to which I shall presently call attention, and also take account of the £4000 rent at which the customs were farmed out in 1265.⁶

Of the extraordinary aids granted during Henry III.'s reign we have lists more or less perfect in several chronicles.⁷ Their amount depends of course on the number of scuta or knights' fees in the kingdom. The Annals of Burton tell us that accord-

¹ Paris, *Hist. Major*, p. 859.

² Gale, ii. p. 86.

³ The spiritualities by my calculation were £103,645 7s. 9½d.; the temporalities, £51,429 19s. 0½d.

⁴ Proceedings of Privy Council, i. p. 342.

⁵ Commonly, I think, spiritualities

and temporalities (see Prynne's *Records*, p. 335), but lands held by barony might be excepted (*Gesta Abbat. Mon. S. Alb.*, p. 368).

⁶ *Liber de Ant. Leg.*, p. 109.

⁷ See *Cont. Flor. Wig.*, ii. p. 188, and Paris, *Hist. Major*, p. 643.

ing to Stephen de Segrave, who had been chief justiciary, there were 32,000 fees, which would be doubled by a new assessment.¹ I have shown elsewhere that the estimate of 32,000 fees is impossible.² But as the same tax which one chronicler estimates at 10*s.* the scutum is spoken of by another as 2*s.* on the carcate or hide,³ I think that Stephen de Segrave meant to speak of 32,000 hides, and that five hides were currently assumed to constitute a knight's fee.⁴ Apparently the old assessment was in force up to 1235,⁵ when the new was added to it.⁶ Putting

¹ *Annales de Burton*, p. 364.

² Vol. i. p. 375.

³ *Bart. Cotton.*, p. 111, *Cont. Flor. Wig.*, ii. p. 188. At the same time so loosely are words used by different writers that Wendover (iv. p. 99) speaks of two marks from the carcate and two marks from the scutum as corresponding amounts.

⁴ So, too, the *Regis. Burg. S. Petr.*, f. 40, (*Kemble's Saxons in England*, i. p. 493), "quinque hydæ (fuerunt) unum feodum;" and the *Liber Niger* (i. p. 278), "quinque carcatæ faciunt I militem, et milites tenent eas quidam plus quidam minus." It is true, *Sprott* (p. 183), and a MS. quoted by Mr. *Kemble*, make the fee consist of four hides; but as *Sprott* values it at £1 5*s.* instead of £1, and the MS. makes it consist of 160 instead of 100 or 120 acres, the difference is more apparent than real. Probably the same explanation applies to the passage in *Glanville* (lib. ii. c. 3), "Feodum dimidii militis vel duas carcatas terræ." There is one recorded instance in Dorsetshire where four carcatas appear to make up a fee; but generally the amount is in excess of five—as six in Buckinghamshire, eighteen in Northumberland, &c. *Abbrev. Plac.*, pp. 29, 50, 59.

⁵ On this assumption, if the *Burton* chronicler is correct, the official

number must have remained at 6400 down to 1235, and then have been nearly doubled. I suspect, however, that the number was in fact increased at different times, as, for instance, when the returns recorded in the *Liber Niger* were made. The statement of *Matthew Paris* (*Hist. Major*, p. 935) that in 1256 the king fined the sheriffs five marks a-piece for having neglected to make every man having ten librates of land take up his knighthood, seems to indicate that a new method of keeping up the number of knights' fees had been adopted. The librate of land is said by Mr. *Elton* to have varied from 20 to 40 acres (*Tenures of Kent*, p. 71). As *Paris* a little earlier (p. 926), speaks (I suspect more correctly) of 15 librates as the qualification, and *Matthew of Westminster* (p. 352) puts the value at £15 yearly rental, I presume the librate was land of a pound rental, which, at 6*d.* the acre, Mr. *Hallam's* average for arable land in the 13th century, might sometimes amount to as much as 40 acres. On the other hand, the *Modus Tenendi Parliamentum* (p. 7) says that the fee was computed at 20 librates, and this seems to be confirmed by a royal writ of 1254, ordering all who hold 20 librates in chief of the king, or from minors being royal wards, to attend Henry on his expedition into

the addition at about 28,000 (so as to make up Sprott's estimate),¹ we shall find that twelve scutages in the first forty-two years of the reign (counting the three of 1224 as one,) amounted to nearly £192,000, or about £4565 yearly addition. Besides these, Henry III. is said to have received £100,000 in 1227, when he declared himself of age.² He repeatedly obtained tithes or twentieths from the clergy. He ransomed the cities at heavy sums after the civil war.³ He was granted a fortieth on all personalty in 1237,⁴ and a thirtieth in 1232. He obtained £31,488 18s. 10½d. from the twentieth granted him by the laity for prince Edward's crusade. He was skilful in finding occasions for extorting money from the Jews. He farmed out a part of Wales, first for 500, and afterwards for 1000 marks.⁵ It seems impossible to estimate his entire income at less than £50,000 a-year; a smaller sum probably than the Conqueror received, below Henry I.'s income (£66,593) in the thirty-first year of his reign, and less than Edward I. afterwards obtained,⁶ but rather more than Henry II. attained to in the

Gascony (Report on the Dignity of a Peer, Appendix I., p. 8). I can only reconcile these differences by assuming that Henry III. tried, in 1256, to diminish the qualification for a knight's fee, and that the attempt was without permanent result. Twenty librates can hardly be put at less than five hides in extent.

⁰ Annales de Burton, p. 364.

¹ 60,215. Sprotti Chronica, p. 114.

² Rot. Chart. in Turr. Lond., p. vi. (Also estimated at 89,000 marks. Paris, Additamenta, p. 860). Part of this was obtained by a tax of one-fifteenth (Wendover, iv. p. 138). This might amount to about 42,000, if Mr. Hudson Turner's statement be correct that one-twentieth in 1269 produced £31,488 18s. 10½d. (Archeol. Journal, vii. p. 46), and if we may set the waste of the civil wars against the increase of wealth during the interval. The remainder was made up by charters of inspexi-

mus and fines, London being forced to pay 5000 marks, and Norwich £1200.

³ London alone paid 20,000 marks. Lib. de Ant. Legibus, p. 107. Bristol, in spite of a promise of forgiveness, gave £1000. Proceedings of Archeol. Inst., 1851, p. 24. Shrewsbury complained about this time that it was tallaged beyond its ability, but this may have referred to the ordinary rent. Royal Letters, ii. p. 310. The cities were frequent sufferers in times of peace. In 1252, Winchester presented Henry III. with the materials for a feast, on his birthday, and the king apparently not thinking the gift sufficient, fined the citizens 200 marks.

⁴ Paris, Hist. Major, p. 445.

⁵ Paris, Hist. Major, p. 816.

⁶ Edward I.'s revenue for the 28th year of his reign amounted to £58,155 16s. 2d. Liber Contrarot. Garderobæ, p. xi.

last year of his reign (£48,781),¹ and sufficient to allow a large margin of waste in a prince whose foreign wars were insignificant, and whose chief expenses were grants to favourites and building. The monstrous dower of 15,000 marks granted to prince Edward on his marriage, is perhaps unmatched in the annals of royal prodigality.² Accordingly, in 1271 the king was forced to propound a last scheme of retrenchment by which commissioners were to administer his estate, and his household expenses were to be restricted to £120 a-year.³ There is no reason to suppose that the project was ever carried out, and the king died in debt.

I append a list of the principal scutages and aids granted to Henry III. during his reign, so far as they can be estimated. I reckon the fees at 6400 down to 1235, and at 12,043 afterwards. I calculate the thirtieths, &c. at the rate of the assessment in 1271, though no doubt there were differences in every year. For 1227, I have taken Mr. Hardy's estimate of £100,000 in preference to the £59,666 mentioned by Matthew Paris, who, perhaps, is not speaking of the whole sum raised.

		£	s.	d.
1218.	Scutage "in recessu Lodowici."	8566	13	4
1221.	Biham scutage	3200	0	0
1224.	Three scutages of Montgomery, Bedford, and Kerry	25,700	0	0
1227.	Fifteenths and fines	100,000	0	0
1230.	Scutage of Brittany	12,800	0	0
1231.	Scutage of Poitou	12,800	0	0
1232.	Scutage of Elweyn	6,400	0	0
	Grant of a fortieth	15,744	9	6
1235.	Scutage for the king's marriage	16,057	6	8
1237.	Grant of a thirtieth	20,992	12	7
1238.	Scutage of Gascony	24,086	0	0
1244.	Scutage of daughter's marriage	12,043	0	0
1245.	Scutage of Gannoc	24,086	0	0

¹ Benedictus Abbas, vol. ii. p. 296.

Preface by Professor Stubbs, p. xxix.

² New Rymer, vol. i. part i. p. 488.

³ New Rymer, vol. i. part i.

	£	s.	d.
1253. Scutage of Westminster . . .	24,086	0	0
Three years' tenths from the clergy	46,500	0	0
1257. Scutage of Wales	24,086	0	0
1270. Grant of a twentieth	31,488	18	10½
Three years' tenths from the clergy	46,500	0	0
	<hr/>		
	£453,636	18	10½

This would make an average of about £8200 a-year from what may be called parliamentary grants. But I have no doubt the sum derived from the clergy is under-estimated. Taxes took so long to collect that the bull of pope Alexander, dated Sept. 2, 1256,¹ and ordering the bishops to pay in tithes for the last two years as well as for the present, may partly refer to arrears of the grant of 1253. But in 1257 mention is made in a papal bull (dated Dec. 24)² of a five years' grant of the tenths to the king. The collection of this was probably suspended by the constitutional crisis, till in 1266 the demand of tenths was revived, and in 1268 conceded. Generally we may, perhaps, assume that there was little extraordinary taxation between the parliament of Oxford in 1258 and the final settlement of the civil war. In 1264, however, when invasion was apprehended, a tenth was levied upon the clergy, but whether on their incomes or on their property I cannot certainly decide. Wikes declares a tenth part of their goods was extorted from them; the Annalist of Dunstaple says that it was a tithe according to the whole valuing of their churches—the vicars contributing nothing. The *Liber de Antiquis Legibus* says that the clergy gave a tenth part of the revenues of their churches; and this agrees with the language of the writ in Rymer to the bishop of Norwich, though that addressed to the archbishop of York speaks loosely of “all ecclesiastical revenues.” I think it is evident that there was some difference between this and the tithe usually collected.

¹ New Rymer, vol. i. part i. p. 346.

² *Ibid.*, p. 367.

CHAPTER VII.

THE SECOND BARONS' WAR.

QUESTION OF THE SICILIAN SUCCESSION. WAR IN WALES. GREAT FAMINE. PARLIAMENT OF OXFORD. EXPULSION OF ALIENS. COUNCIL OF REGENCY. FLUCTUATIONS OF PUBLIC OPINION. GRADUAL REVIVAL OF THE KING'S POWER. CIVIL WAR. THE AWARD OF AMIENS. RENEWAL OF CIVIL WAR IN ENGLAND. BATTLE OF LEWES, AND TRIUMPH OF THE BARONS.

AS the royal authority sunk lower and lower in general estimation at home, the king grew more reckless than ever in his policy and rule. With the death of Frederic II. (1250), it became the natural and main object of papal statecraft to dismember Naples and Sicily from the Roman empire. Yet, as the Ghibelline cause was well organized, it was difficult to find a nominee at once powerful enough to conquer and not strong enough to prove of doubtful allegiance. As long as the young Henry, Frederic's son by his English wife, was alive, no English prince could with any decency accept the inheritance of a kinsman. But when Henry died, the king of England could no longer resist the attraction of a crown for his second son, Edmund, enhanced by a dispensation for himself from the crusade he had sworn to make in Palestine, if he would only aid in subduing the pope's enemies in Italy. It was arranged that Henry should pay the expenses of the war, the pope assisting him to the full extent of his power, and that Edmund should hold the Two Sicilies by a

yearly payment of two thousand ounces of gold to the pope, with the obligation of military service, and under contract never to accept the imperial dignity. (April 9, 1255).¹ In the small circle of the English court this arrangement gave the highest satisfaction. The young prince was paraded in public in the Italian costume and with the state of royalty. He was made to set his child's ring to a deed by which the bishop of Hereford, John d'Aigue-Blanche, received the investiture of Sicily as his proxy. (June 22, 1259). But the English barons and people were not careful about foreign crowns for a dynasty whose chief dishonoured their own. Their sense of right was outraged by the papal treaty, which classed Ghibellines with Saracens as proper objects of a crusade. Above all, they groaned under royal demands for subsidies and papal enforcement of tithes, first-fruits, and other spiritual spoils. When the archbishop of York was excommunicated with candle and bell throughout his diocese, by special order from the pope, for opposing the unrighteous exactions, the people, who knew why he suffered, "blessed him silently the more the Church cursed him."² Nor was English vanity softened by any news of native victories or even of success anyhow achieved. The pope, wisely no doubt, preferred gold to recruits, who could be found nearer the field of action, and Henry had pledged his credit for four times his revenue, while large amounts had been raised by taxes and other expedients, though the English flag had not yet waved on a single Italian field. Lastly, though all reports from the scene of action were garbled, the truth at last transpired that native

¹ New Rymer, vol. i. part i. pp. 316-318.

² Paris, Hist. Major, p. 956.

independence was maintaining itself with tenacity and success.

Difficulties of another kind began to thicken about the king of England. Scotland was in the hands of a regency, and the presence of an English army on the borders was required to watch the turbulent land, whose nobles were always ready to pour down upon the south. But Wales was a subject of more serious disquietude. The young Edward, on his return from Gascony (1255), had been invested with the right of the royal seal for Ireland and for Wales. In an evil moment he visited Chester and Dysarth to receive the homage of his western vassals (1256). His strong sense of order was outraged by the irregularities of the Welsh dominion, and, with a young man's carelessness of the feelings of the natives, he introduced the English divisions of shires and hundreds, and the English law. His bailiff, Geoffrey de Langley, a violent and grasping man, promoted the ferment of wounded patriotism by a capitation-tax of fifteen-pence.¹ The times were especially favourable for a revolt, as Llewellyn, the chief native prince, had lately established his authority over his insurgent brothers. He now placed himself at the head of a well-appointed army, recruited from his own subjects and from Edward's vassals, and even from South Wales, and swept down upon the borders.² During the winter,

¹ *Annales de Dunstapliâ*, pp. 200, 201. *Annales de Theokesberiâ*, p. 158. The *Brut y Tywysogion* (A. 1255) represents the Welsh chiefs as thinking death "preferable to being trodden down by strangers in bondage." But in South Wales at least there was a party formed or growing up who desired English

law. *Royal Letters*, vol. ii. p. 353.

² The war seems to have been at first confined to the lands of prince Edward, or at least not indiscriminate. Compare Llewellyn's letter, *New Rymer*, vol. i. part i. p. 340, and the words of Paris, "homines Edwardi . . . hostiliter invaserunt." *Hist. Major*, p. 937.

which was wet and unfit for military operations, the English could make no reprisals: in the spring (February, 1257) they crossed the Severn, and were defeated. Sustained by the innate confidence of men who regarded themselves as born superiors, they continued the campaign, though the Welsh forces were now said to number thirty thousand men,¹ and received a still more disastrous overthrow at Kemereu (June, 1257), where three thousand were left on the field. The defeat was ascribed to the treachery of a native, Rees Vaughan, who led the invaders into a marshy ground where they could not act. Henry had hitherto answered Edward's applications for help with an angry taunt that he should show his young strength and protect his own land. The urgent danger for all England now forced the king to summon the whole force of the country for a general invasion of Wales from north and south (August 1, 1257). Yet either the English barons were half-hearted, or the Welsh were sterner enemies than they had yet proved, for the whole power of England failed to reduce the rebels or compel peace. Next year brought no better prospects. An English army was defeated at Kenmeis (April 1), prince Edward's Irish levies were not allowed to land, a native chief who had deserted his countrymen's cause was deprived of his lands and imprisoned,² and Llewellyn began to treat of alliance with Scotland. Fortunately at this critical moment the government of England was wrested from the incapable hands of its

¹ Matthew Paris, *Hist. Major*, p. 944.

² Mareduet, son of Rees Crych. *Annales Cambrie*, A. 1259. The expulsion of Griffith, son of Gwen-

wynwyn (called by Paris Griffin de Berunt), is spoken of by the Brut y Tywysogion (which, however, antedates the rebellion by a year) as posterior to the battle of Kenmeis.

king, and Wales, left to itself, subsided gradually into order and an honourable peace (1260).

Different causes conspired to drive a long-exasperated people to revolt. The heavy taxation and the inglorious Welsh campaign were no doubt the principal. The old feud between the court and London had lately been envenomed by the death of a swaggering squire of William de Valence, whom the citizens had slain for his insolence, and by the prevalence of a strong belief among the lower orders that the city taxes were assessed unfairly by the wealthy men whom the court kept in office.¹ The king had just lost the support of his brother, whom the bait of an imperial crown had lured into Germany, and who took with him such enormous sums to subsidize his partisans as seriously to affect the English exchanges. But above all, there was famine in the land. The summer of the last year had been so wet that nothing had ripened properly. Wheat had risen from its normal price of one to four shillings the quarter to fifteen or twenty, or even twenty-four shillings.² The distress was especially great in Kent, and in London it is said fifteen thousand persons died.³

¹ One complaint was that the roll of tallage-assessments was not read out publicly in the Guildhall. *Liber de Ant. Legibus*, p. 33.

² The average price of wheat is difficult to fix. In an Inquiry into the Price of Wheat, it is put at £1 3s. 2½d. in modern values for the thirteenth century. But the fluctuations were enormous. The Assize of Bread in 1256 begins, "When the quarter of corn is sold for 12d." *Annales de Burton*, p. 375. In 1253 the Monastery of Dunstaple sold corn at 5s. the quarter. In 1254 it bought fifty acres of wheat and oats (probably from seventy-five to a hundred

quarters) for 100s, the harvest that year being noted as good. In 1257 there was a famine, and in 1258 corn sold for 20s. the quarter at Northampton, 17s. at Bedford, and 13s. 4d. at Dunstaple. Nevertheless, the monastery, in default of seed corn (*bladum*), was able to purchase grain (*frumentum*) at 8s. 6d. and 6s. the quarter. *Annales de Dunstapliæ*, pp. 188, 191, 205, 208. Compare Rishanger, pp. 112, 113, notes by Halliwell. *Gesta Mon. S. Albani*, p. 389.

³ The *Annales de Theokesberie* (p. 166) say twenty thousand.

Private charity did its best to succour the distressed, and criers might be heard in the streets bidding the needy to go to houses where alms would be bestowed.¹ Richard of Cornwall, now king of the Romans, sent over fifty ships from Germany, and saved many lives by the seasonable relief. But amid the national misery there was one man who looked only for an occasion of money-making. As soon as the German ships arrived in the Thames,² the king, putting forward the obnoxious claim of purveyance, against which Parliament had already protested, seized the supplies and commenced selling them at a large profit. The citizens of London were aroused by the immediate importance of the claim to bring it before the law courts, and obtained a decision that the king could only buy in the open market at two-pence a quarter below the market price.³ But the crime of a king trading on his people's blood could not be forgotten as easily as the encroachment was repelled.

It is probable that the sense of general hatred did not weigh so much with Henry when he met his Parliament at Woodstock (April 9, 1258) as a threat from the pope to excommunicate him if he did not discharge the liabilities he had incurred to Rome. The most solemn judgment of the Church had indeed come to be of vile use when it was employed to enforce payment of a bad debt. The barons probably did not

¹ Chron. de Lanercost, A. 1257, p. 65. Paris, Hist. Major, pp. 969, 970.

² Paris appears to place the arrival of the ships from Germany before the Parliament of London (Hist. Major, p. 963), and the Liber de Antiquis Legibus (p. 37) before

the Parliament of Oxford.

³ They also contended that he could only buy for the supply of his own household. Judgment was reserved, and seems never to have been given, but the opposition did its work. Liber de Antiquis Legibus, p. 52.

much care though the king fell under the sentence he merited, but they were startled at the enormity of the engagements contracted, and exasperated by the reckless insolence of William de Valence, who called every obnoxious baron "traitor" to his face in full council. Simon de Montfort was not minded to bear abuse patiently, and would have cut the speaker down where he stood if the king had not interfered. At last it was agreed that the barons should grant aid if the king would give security for decent government, and that a fuller Parliament should be held to arrange terms, under the presidency of the papal legate—who was then expected—if he should have arrived. Henry agreed also that a committee of twenty-four should be appointed, of whom twelve should be named by the barons and twelve by the crown, to draw up a scheme of reform. It was difficult, however, fully to trust a prince who had sworn only five years before (1253) as a man, a Christian, a knight, and a king crowned and anointed, to keep the whole charter intact in all simplicity, under the most solemn sanctions that religion could afford, and who had since then habitually broken his oath, and was now trying to make it matter for a fresh bargain. Accordingly, by common agreement, the nobles repaired in military array to the critical meeting at Oxford (June 11), the Welsh war furnishing a convenient excuse. The committee was speedily named. Henry chose his three half-brothers, a nephew, a brother-in-law, the queen's brother, four officials, of whom the brave and unscrupulous John Mansel was the most prominent, the bishop of London, and the earl of Warwick, who owed his fortunes to royal favour. Among the barons, the most conspicuous were Simon de Montfort, Roger Bigot, marshal and earl of Norfolk,

who had been grossly insulted by the king,¹ and Richard de Clare, earl of Gloucester, whom Henry had constrained to put away his first wife, Hubert de Burgh's daughter.² Walter de Cantilupe, bishop of Worcester, a crusader, and member of a noble English family, was the only prelate openly on the side which the English Church prayed for, and which the pope was soon to curse.

Having sworn to labour at the reformation of the state to the honour of God, the faith due to the king and the people's weal, without regard to loves or fears or to personal gain, the members of the committee, by a proceeding like that of an American caucus, nominated four who were to select a new council for the king. Either because the king's adherents feared to exasperate the barons, or perhaps because it was really impossible to select a body of Englishmen of rank who should not incline to the popular cause, ten out of the fifteen chosen for the council were staunch members of the opposition. It was now easy to replace the great ministers of state and the sheriffs by new men sworn to obey the ordinances of the committee; and a step of even greater importance was the replacement of foreigners or court dependants by Englishmen mostly of the barons' party, and always it may be assumed moderate men, in the governorship of twenty-one royal castles. During twelve

¹ In 1255, Henry had called him a traitor, and threatened to thrash his corn for him, to which the earl answered that he would send back the heads of the thrashers. Paris, *Hist. Major*, p. 917.

² The Report on the Dignity of a Peer (I. p. 104) notices a writ addressed to the earl of Gloucester

and Hertford, as nominated by the king on the commission, and the lords observe that the unofficial list given by the *Annalist* of Burton mentions only eleven commissioners of the king's appointment. Dr. Pauli, however, prefers the authority of the chronicler. Perhaps the earl was nominated by both sides.

years the new seneschals were to hold their trust under orders from the council; at the end of that time they were to resign it unconditionally to the king. As Parliament had by this time come to be distinct from the attendance of the baronage at court, so that a scanty assemblage was constantly made an excuse for postponing important business, it was enacted that three regular Parliaments should be held every year in February, June, and October, that the council should attend these, summoned or not, and that twelve representatives of the Commons, elected and paid by them, should come up whenever the council deemed their presence necessary, and should have power to bind the nation by their consent. This would probably content the fair demands of the nation to control taxation. But as the mismanagement of the counties was a much more actual grievance, it was decreed that the sheriffs should in future be local officers, vavasors of the respective counties, should give in annual accounts, and should take no fees. Henceforth they were to be checked by a sort of tribunitian board of four knights elected in every county to hear complaints and report grievances to Parliament.¹

Sweeping as these changes were, they were known to be only the prelude to a general reform of the chief grievances affecting the baronage, and it was understood that the realm was to be purged of aliens. An oath more or less was no great matter to the king, but his kinsmen and councillors were less practised in perjury, and had more to lose by a new administration. Prince Edward openly expressed his repugnance, and was accordingly required to find four sureties. His cousin,

¹ Annales de Burton, pp. 446-453.

prince Henry, obtained a respite of forty days, on the plea that he was not a baron in his own right, and that his father was beyond seas; but he was told openly that his father would forfeit every furrow of English land if he declined obedience to law. William de Valence and his brothers swore that they would never surrender the castles the king had entrusted to them. Simon de Montfort, who had set the example by surrendering Kenilworth and Odiham quietly, told the blustering earl of Pembroke that he should either give up the castles or lose his head. Next day it appeared that the brothers had fled to Winchester, where they hoped by the bishop's support to maintain themselves against the power of the kingdom. The barons at once proceeded to nominate Hugh Bigod justiciary, and marched under him with their whole forces in array to invest the rebels, before foreign troops could be brought over. This promptitude saved the country. Bishop Aymer saw the hopelessness of resistance, especially as the "queen's kinsmen" were sagaciously making common cause with the nobles against the "king's men," and persuaded his brothers to submit quietly to a general sentence of exile against themselves and their adherents, only the bishop himself and William de Valence, as earl of Pembroke, obtaining leave to remain under surety for their good behaviour. They did not care to profit by the permission, and departed. Their lands and enormous personalty, except six thousand marks which they took with them, were sequestered till all complaints against them had been answered.¹ It was said that at a parting banquet they poisoned several of their most eminent opponents;

¹ Annales de Burton, p. 445. New Rymer, vol. i. part i. p. 374.

but the charge is doubly improbable, both inasmuch as the abbot of Westminster, one of their own friends, was among the deaths, and as similar rumours of poison in the rivers and wells were soon current in the kingdom. Disease was no doubt following in the train of famine. But these gloomy suspicions added to the general panic in the country, and increased the passionate longing for reform.

Favoured by this state of public opinion and by the daily increase of the king's necessities, the barons gradually drew the whole power of the realm into their hands. Prince Edward had intended to withdraw into Ireland, secure himself in an independent dominion, and watch the tide of events. He was checked by a peremptory writ withdrawing his powers (June 28). His deputy in Gascony was removed (July 12).¹ The viscounts throughout the kingdom were ordered by royal letters to empanel inquests for determining what breaches of law had been committed of late years (July 28). The abuses of royal purveyance were redressed by a stringent regulation adopted after conference with the citizens of London (August 5), that all royal officers taking goods without payment should be imprisoned, and the abuse actually ceased for some time.² Finally, the king was induced to issue a declaration that the decision of a majority of the council was to be regarded as law (Oct. 18). This concession, the most extensive of any, and amounting to a virtual resignation of royal authority, was obtained apparently at the Parliament of Westminster in the autumn, and shows that the movement for reform had only gathered strength with time.

¹ New Rymer, vol. i. part i. pp. 373, 374.

² Liber de Ant. Legibus, p. 39.

It is noteworthy that the king's letter was issued in English as well as in French.¹

But the barons soon found that no powers, however enormous, could satisfy the vague wants and conflicting interests of a nation not yet trained to self-government. The cry against foreigners was raised by tradesmen jealous of competition and anxious to banish Lombards, Gascons, and Germans, as loudly as by the noble who wished to reserve wardships for Englishmen, or by the priest who murmured at the patronage diverted to aliens. The demand for justice in the noble's mouth meant that he should be free from the interference of crown officials, and responsible only to the king in curia; while to freeholders generally, who only wished that the king's justice should be cheap and even-handed, the sheriff was perhaps a smaller danger than the baron himself. The new rulers were expected to reform extravagance in dress, and regulate the assize of bread and the rates of usury,² while the pope was pressing them for payment of the king's debts, and the king anxious to escape into France and negotiate for his lost dominions. To crown all, prince Edward was working among the gentry of the kingdom, and exhorting them to look to their own interests and see that the barons did their duty by the country as honourably as he and the king had fulfilled the compact entered into at Oxford. Accordingly, in the spring Parliament of the next year (Feb. 1259), the prince appeared as promoter of a petition from the body of those who held a knight's qualification,³ complaining that the barons

¹ New Rymer, vol. i. part i. pp. 963; Annales de Burton, pp. 442, 377, 378. 486; Political Songs, p. 51.

² For these minor grievances of the time, see Paris, Hist. Major, p.

³ There is some difficulty about the date of this petition. The Annales

had only used their powers hitherto to the filling all vacant places with their own adherents, and declaring that the petitioners would reform the government in some other way if there were any further shortcomings in high quarters. Edward added protestations of his own intention to observe his oath loyally, and vowed he would stand by the petitioners to the death in the just assertion of their rights. The council responded presently by a general declaration that they would grant their tenants all the rights which they could obtain from the king, thus throwing the blame of the delay hitherto upon the court. A full Parliament met after Easter, and agreed on the first project of reform. Its chief provisions were intended to stop the changes in tenure that were going on in the silent progress of society, and to stereotype the rights and properties of landowners, small or great. An arbitrary date was fixed, the king's first campaign in France, about nine-and-twenty years before (1230), and it was declared that all service was to be paid according to the tenures then existent, stringent remedies being given in case of default. A few good regulations for restraining the power of the crown officers to impose vexatious fines, and for limiting the powers of the lower officials, were followed by one exempting all earls and barons, bishops, abbots, and members of religious orders from the jurisdiction of the local courts, except in the case of the dis-

de Burton (p. 471) refer it to the Parliament of Westminster, Oct. 13, 1259. Mr. Parry (*Parliaments of England*, p. 40, note r) observes "that the act of the bachelors was not at Michaelmas in 1259 appears from the publication of the ordinances as a consequence, which are

dated Westminster, 28 March, A.R. 43." He accordingly refers it to the Parliament of Oct. 6, 1258. I prefer the date Feb. 9, 1259, as by that time the royalists were gaining strength with the return of the king of the Romans, and the barons had begun to disappoint expectations.

strict where they were domiciled, a regulation intended to save landowners from vexatious fines and needlèss attendances, but which tended to diminish the importance of the assizes, and might make it difficult to implead a powerful landowner. In compensation it was enacted that no noble might implead a tenant about his freehold, or put him on oath, except by writ from the crown. Besides these ordinances, directions were given for a new Domesday of the country, in which particular inquiry was to be made "whether any man whose father was a serf passes himself off as a freeman, and by what right and warranty he is free."¹ In the west of England it was believed to be part of the new constitution that the justices in eyre should only make their circuits once in seven years.² As there is no official record of the enactment, it is possible that it was only discussed and not carried. Its object no doubt was partly to free the nobles and religious houses from the burdensome charge of entertaining the royal officers, and to relieve the country from the fines which were commonly enforced on a circuit for the benefit of the crown. Practically, however, it would have thrown the whole ordinary administration of justice into the hands of the baronage, and have undone the legal progress of a century. Altogether, it cannot be matter of surprise if these changes did not satisfy the nation. There was, however, no immediate reaction, and the statutes of Westminster were ordered at Michaelmas to be proclaimed a second time throughout the country.

Henry had bowed to circumstances. When his bro-

¹ *Annales de Burton*, p. 480.

² "1261. The justices in eyre came to Worcester, and the whole county refused to receive them be-

cause seven years had not elapsed since they last sat there." *Ann. Ecc. Wig., Anglia Sacra*, i. p. 495.

ther Richard returned from the profitless German empire, the king hastened to meet him, probably with a vague hope of being helped against his barons; and the king of the Romans did, in fact, swear that he would never submit to ordinances that had been made without his consent. But the sight of a fleet and army ready to give him battle calmed his courage,¹ and he took an oath under penalty of all his lands to assist the barons loyally in reforming the kingdom (Jan. 10, 1259). A fresh disappointment awaited the king, when he sent over commissioners to France in the spring of this year, hoping to procure the restoration of his lost provinces by an appeal to the conscientious scruples of the king of France. Louis IX. proved resolute in maintaining his claims, and would only offer a few districts in the south and a sum of money for the absolute renunciation of the English title. Henry consented, under the influence of the chief commissioner, Simon de Montfort, and of the home administration, and afterwards, it is said, bitterly repented his compliance. His sister, the countess of Leicester, felt even more strongly on the subject, and delayed the treaty some months by refusing to surrender the possible rights of herself and of her children. This conduct, though she finally gave way, was made use of to prejudice Simon de Montfort by the king's partisans, and may have contributed to the close union which sprang up a little later between the courts of England and France. As the earl conducted the negotiations, he may fairly be acquitted of any personal blame. For a time there was some question of satisfying the claims that had arisen on both sides by confiscations, or otherwise, since the loss of

¹ Paris, *Hist. Major*, p. 983.

Normandy under John. It was probably found impracticable to carry it out; and an article declared that both kingdoms were quit towards one another. The negotiations had latterly been conducted under Henry's presidency. A visit to France in the autumn withdrew him from the unpleasant spectacle of his ruined authority in England, and gave his queen an opportunity for intriguing with her sister of France in the interests of the English crown against the English state.

During his father's absence prince Edward had followed a steady policy, opposing the earl of Gloucester, who headed the oligarchical party, while De Montfort was away, and yet showing that he was prepared to carry out his pledges of reform loyally. A distinct royalist party began to form in consequence, for the first time for years; and there was talk of superseding the unwise king and of making his son regent. Rumours of this reached Henry in France, and alarmed him so much that he would not return till a letter, signed by Edward and the principal nobles, assured him that he had nothing to fear (April 23, 1260); and even then he kept an escort of guards round him. The difficulty was adjusted for a time by Edward's going over to Gascony¹ (Aug. 1260), after exculpating himself to his father in full council and being reconciled. Nevertheless, even thus early there were signs of division both in the royalist and in the constitutional camp. Edward, from good sense and political tact rather

¹ Edward seems to have been at Westminster towards the end of July. In negotiations with Llewellyn, dated August 15, he is not mentioned; and in September the king writes to him in Gascony to express his surprise at

not having heard from him. New Rymer, vol. i. part i. pp. 398, 400, 481. His silence was probably due to a misadventure at a tournament where he was severely wounded. Ann. de Dunstapliâ, p. 216.

than from any want of the autocratic spirit, was inclined to yield a just measure of the constitutional claims, and to trust to himself for carrying out his objects. He was, therefore, behind many of his partisans in apparent zeal for the king's cause. The earl of Gloucester, on the other hand, seems to have represented the high oligarchical party, which regarded government as a compact between the nobles and the crown, in which the people at large had no voice. Hence, for a time at least, the two statesmen, De Montfort and Edward, were drawn towards one another,¹ and a transient league formed between Gloucester and the king. No man knew from day to day what fresh combinations might not be attempted: the barons attended parliament with armed retainers in their train, and Henry took measures to introduce foreign troops. In October, however, the earl of Leicester officiated by special appointment as steward at the court festival of Edward.²

In the spring of the next year (Feb. 1261) the king felt strong enough to strike the first blow. Having called the council together, he told them that as they had neither paid his debts, nor taken any measures, except for their own advantage, he considered the compact between them at an end.³ He proceeded to seize and fortify the Tower, laying hands on all the treasure deposited in it, ordered all the citizens of London to renew the oaths of allegiance in folk-mote, and appointed Philip Basset chief justiciary, though Hugh Despenser, the barons' last nominee, was still exercising his functions. A bull of absolution from his vows was ob-

¹ Perhaps it is some evidence of this that De Montfort's two sons were knighted by Edward, and went with him to Gascony. Matt. West.,

A. 1260, p. 375.

² Blaauw, *Barons' War*, p. 76.

³ *Royal Letters*, ii. p. 170.

tained from the pope; and it was rumoured that Louis had promised to support him with an army in a seven years' war if necessary. But the worst of the situation was that the earl of Gloucester was now an avowed royalist, and that Simon de Montfort fled into France, preferring exile to compromise or submission; and, perhaps, as the event showed, believing that he could best serve his country at this crisis by diplomacy. Henry was alarmed, not without cause, lest he should detach the king of France from the interests of the crown, and wrote to his brother-in-law entreating him not to listen to any *exparte* statement. At the same time he issued letters in England stating that the earl had agreed to this arbitration (March 14). Nevertheless, two months later (May 18), the Cinque Ports were warned against the foreign troops which Simon de Montfort was trying to introduce into England.¹ Louis seems to have declined the arbitration, and several months passed by uneventfully, the barons spreading reports of intended taxation, and of the king's foreign troops; while Henry replied by a public justification (August 16), and declared that he wished to free the realm from the new customs and servitudes which the sheriffs nominated by the barons had introduced. De Montfort, who had returned for a time, now left the kingdom again.² But he seems merely to have passed from country to country. In October the king issued writs ordering the different counties to pay no regard to the new sheriffs and bailiffs whom the barons' party had appointed.³ The bishop of Worcester and earl of Leicester responded by calling a parliament at St.

¹ New Rymer, vol. i. part i. p. 406.

² *Ibid.* p. 409.

³ Royal Letters, ii. p. 192.

Alban's, to which three knights from every county were summoned, to treat with them on the affairs of the kingdom, while the king fixed the same day for a meeting similarly constituted at Windsor. What passed at these assemblies, if indeed they met, is unknown. But at the parliament of London, in November, the barons attended in such force that a civil war seemed imminent. Mediators interposed, and against the will of the more earnest reformers a compromise was partly agreed to, by which the barons were to withdraw most of their demands, while Henry published an amnesty (Dec. 7) to all who had been in opposition, and to fourteen by name—including De Montfort and Despensers—as a proof of his desire to overlook the past.¹ That the earl of Gloucester was not named seems to prove that he was in no need of grace. Next, a commission of six was named—three on each side—to determine how the sheriffs were to be appointed next Michaelmas. The whole constitutional quarrel, in fact, turned for a long time on this. The barons wished all nominations for the next ten years to be made by the king in council, and confined strictly to landowners of the respective shires. The king was resolved to be absolutely free; and there were naturally many courtiers who were willing to support him in a question of patronage. The commission accordingly could agree on nothing; and when the question was referred (Jan. 29, 1262) to the king of the Romans, his decision in favour of his brother's absolute right was incontinently rejected by the opposition. It added to their confidence that prince Edward, when he returned a little later

¹ Matt. West., A. 1261, p. 381; Wykes, Gale, ii. p. 55; New Rymer, vol. i. part i. p. 411.

from Gascony (March, 1262), declared that, though he had sworn against his will, he would not be false to his oath.¹ This spirited protest did not prevent his father from publishing a fresh declaration that he considered himself absolved, and ordering his officers to dissolve all coalitions in defence of the constitution, and arrest their members (May). The citizens of London responded by driving out all the foreign soldiers and serving men in the city, who were quartered in consequence at Windsor, and by keeping knightly guard to prevent their return, till the precaution was found worse than the danger, as a mob accompanied the militia on their rounds, and sacked the houses where foreigners were supposed to be harboured.² Henry quailed before the storm he had provoked, and confirmed the barons' nominee, Hugo le Despenser, in the post of justiciary, and entrusted the custody of the Tower of London to him. The death of the earl of Gloucester (July 15) was a further and heavy blow to the royal cause, as the young earl was entirely influenced by his mother,³ and espoused De Montfort's interests.⁴ All now depended on what award king Louis should give, as he had been appointed final referee by the consent of both parties. Louis was honourably sensible of the difficulties of the

¹ Paris, Cont., p. 991; New Rymer, vol. i. part i. p. 417.

² Liber de Ant. Leg., pp. 54, 55.

³ Maud de Laci, countess dowager of Gloucester, was distantly connected with De Montfort, being great granddaughter of Margaret Fitz-Parnell, whose sister, Amicia, carried the honour of Leicester into the De Montfort family. Maud de Laci's marriage had been made by De Montfort's influence, in 1238, and

occasioned great scandal, Richard de Clare being already married to Hubert de Burgh's daughter. Matt. West., A. 1238, p. 298. Henry's persecution of his first great minister was thus visited upon his head after more than twenty years.

⁴ It is noticeable that Richard de Clare's castles were in the custody of Humphry de Bohun, earl of Hereford, seven months after his death. Royal Letters, i. p. 236.

task imposed on him, and perhaps aware that all depended on De Montfort's acquiescence. He delayed giving his decision; and even a visit from Henry produced no effect on the negotiations. But the English king falling seriously ill, the autumn of 1262 passed off quietly.

With winter troubles began. There was a feud of some standing between Roger de Mortimer, a fervid royalist, who had openly renounced the provisions of Oxford, and Llewellyn of Wales, whose interests made him the natural ally of the barons. At the head of a large army Llewellyn poured over and harried the lands of his enemy, and advanced on Hereford.¹ Henry wrote urgently to his son, who was then at Bristol, entreating him to march against the enemy,² and Edward consented, thus virtually changing sides. It was said his mother's prayers influenced him; but his alliance with De Montfort had always been insecure, resting rather on honourable respect for his plighted word and dislike to the earl of Gloucester, who was now dead, than on steady principle. The future king was pretty certain to be royalist at heart, and an honourable man might well regard his compact with the barons as at an end, if they were the first to take up arms. His decision was rewarded by a writ to all the sheriffs enjoining them to impose a new oath of allegiance, and to join Edward's name with the king's as heir to the crown (March). Simon de Montfort had been in France as late as February, not, however, to

¹ During the friendship between Edward and the De Montforts, the custody of the Welsh marches had been entrusted to Peter de Montfort, a partisan and distant kinsman

of the earl of Leicester. It seems he was suspected of favouring Llewellyn. *Royal Letters*, ii. pp. 230, 231.

² New Rymer, vol. i. part i. p. 423.

negotiate, as he told Louis that treaties were useless, while the king of England retained his present counsellors.¹ The earl now put himself at the head of the barons' forces to assist Llewellyn, and resist the imposition of the oath. The barons were completely successful. They captured Hereford with its alien bishop, and Gloucester with its alien governor, who probably owed his post as sheriff there to the favour of the late earl, and who gave proof that he had deserved it by his soldier-like defence. The army of the league then swept on towards the south and east, ravaging the lands of the royalists by the way. The people generally were with them, and a man who could not speak English ran risk of being roughly handled.² Even the earl Warenne and king Richard's son, Henry, joined their ranks, the latter seemingly from a grudge against John Mansel, whom he literally hunted across the channel. Leaving London in the watch of the mayor and commonalty, who kept the king a virtual prisoner in the Tower, De Montfort besieged Dover.³ He was recalled to the capital by the news that Henry was prepared to make terms. The king and his family believed themselves to be in actual danger. The queen, indignant at her husband's willingness to compromise, attempted to escape by water to Windsor (July 13), and was stopped by an angry crowd on London bridge, who assailed her with curses and bitter words, and with a shower of dirt and stones, which made progress impos-

¹ Royal Letters, ii. pp. 242, 243.

² Matt. West., A. 1263, p. 383.

³ We know from a letter of Henry that De Montfort marched from Reading to Guildford, and took Reigate on the 30th of June. This was probably on his way to Dover.

Henry had issued orders (May 8) to all the ports between Portsmouth and Yarmouth, directing them to arrest all horses and men coming from abroad. Royal Letters, ii. pp. 245, 246, 248.

sible. Fortunately, she found shelter in the bishop's palace near St. Paul's. The insult sunk deeply into the royal breast, and was bitterly avenged at a later date. But the king saw that it was useless to protract resistance, which prince Edward alone among the royal counsellors was now found to advocate. Moreover, the prince had forfeited his moral influence by a dishonest seizure of some of the money deposited in the Temple, where he gained admission under pretence of inspecting his mother's jewels.¹ A hollow truce was easily patched up, Dover and the Tower of London being surrendered to the barons, and the king and his partisans again swearing to observe the provisions of Oxford as commissioners on each side should modify them. A clause, however, was inserted, stipulating that the consent of Parliament should be obtained, and this ruined all, as the passions of both sides were by this time so high that two parliaments met without being able to agree on a settlement. Prince Edward scarcely feigned to keep the treaty, and gave great and just offence in seizing Bristol by a dishonourable stratagem. He no doubt regarded it as his personal property, but the deceit was retorted on himself, and he was detained by De Montfort at a conference till he surrendered his prize (August).² The king, a few months later, tried to obtain admittance into Dover (December 4). Foiled in this he marched rapidly upon London, and had almost surprised De Montfort and his small forces, who were then quartered in Southwark, outside the city. The soldiers of the earl found to their dismay that the

¹ Chron. de Dunstapliâ, p. 222. I observe Dr. Pauli reads "cum se ipsum dehonestare voluisset;" Mr. Luard, "noluisset." The amount

taken was estimated at £10,000 Blaauw, Barons' War, p. 118.

² Rishanger, pp. 13, 14.

gates were locked against them, and had signed themselves with the cross, expecting instant death, when the Londoners burst the barriers and rescued them. It appeared that four of the chief citizens had contrived the surprise with the king, and thrown the keys into the Thames. De Montfort, for the moment, inflicted no heavier punishment on them than a fine. The incident testifies to the strong feud which existed in those times between the privileged city families and the commonalty, who had been excluded from office till these troubles began. Henry had been no easy task-master to the wealthy citizens, but as the enemy of their enemies they were prepared to support him, even to the ruin of the national cause.¹

Throughout the autumn there had been an exchange of diplomatic papers between England and France, king and barons desiring Louis to act as final arbiter in their quarrel, and the only question being to decide in what way a binding verdict might be procured. Henry evidently desired to be present at the deliberations that should precede it, and his nobles were equally anxious to keep him in the country, no doubt dreading his personal influence, and perhaps fearing lest he should return with an army. At last it was arranged that the heads of both parties should repair to Amiens, a solemn promise being given on both sides to abide loyally by the decision there pronounced, whatever it might be. But as Simon de Montfort was detained at home by a fall from his horse, and the other heads of the party were afraid to leave the kingdom, the barons

¹ Henry's letter of December 8, ordering the citizens and commons of London to expel Simon de Montfort was probably intended to justify

this attempt by stating the king's grievances. Royal Letters, ii. p. 250.

were imperfectly represented by five of their own number and three proctors, who had authority to accept any verdict given between then (December 31) and Easter, and to demand an explanation of any ambiguities. Louis is said to have disliked the task imposed upon him, and only to have accepted it at the urgent entreaties of the English primate, Boniface. He was now as rapid in pronouncing judgment as he had been cautious of accepting the responsibility. Within three weeks he delivered the Mise of Amiens (Jan. 23, 1264), which gave Henry all that the most ardent royalist could desire, and more than the most sanguine could have hoped. The Oxford statutes were annulled; all castles were to be given up to the king; he might appoint the justiciary and other great officers, the council, and sheriffs, and remove them at pleasure; he might call strangers into the kingdom and admit them to the council, without regard to any provisions to the contrary; and as if all this were not sufficient to secure arbitrary power, a special clause declared that he was to have full power and free rule in his realm. A provision that both parties were to lay aside all rancour, and to abstain from annoying one another, was at least as much in the interests of the crown as of the opposition. But with a singularly illogical justice, Louis declared that he did not intend by the present ordinance to derogate in any way from the royal charters and liberties and laudable customs of the kingdom of England, such as were in existence before the statutes of Oxford. This, in fact, would have restored things pretty much to their former footing, abstract right on one side, and tyrannical power on the other, but there were passages of Magna Charta inconsistent in spirit and wording with government by aliens, so that the barons' envoys might

fairly have demanded a further explanation of these ambiguities. They do not seem to have done so, or to have protested: and although angry voices at the time impeached king Louis of dishonesty, opinion soon swayed back to trust in the good king, and only a few months later he was again appealed to to arbitrate. Yet those who believe him to have been fair-minded and sincere may none the less think that a worse umpire among good men could hardly have been selected. With a tendency not uncommon in scrupulous minds, Louis regarded inherited right as of higher account than abstract theories or expediency. Hating war, except against the infidel, he would naturally lean towards a restoration of the old system as a refuge from actual difficulties which were being voided by the sword. A better and an abler man than Henry, he yet had a superstitious reverence for a faith more uncritical and more ceremonial than his own, and he was the king of England's kinsman by marriage. But above all, as sovereign of France, where monarchy was based on proprietorship, and king and nobles, each in their own way above law, he was absolutely unfitted to understand that balance of even rights by which citizenship limited monarchy in England. Whatever restricted the king in his function of government must have seemed to him anomalous and disorderly.

The advantage which Henry's cause derived from the Mise of Amiens was incalculable. Coming at a time when a party had already begun to form against the barons, it determined all waverers, and several, like prince Henry, the king's nephew, who had been staunch members of the opposition, to desert to what appeared the winning side. It gave Rome an excuse for interfering. Urban III. had lately declared prince

Edmund dispossessed of the crown which he could not win, and was anxious to make some amends to the king, and to restore peace to the rich granary of Rome. He now issued a series of bulls confirming the *Mise*, forbidding leagues among the barons, and mitigating some of the more flagrant abuses entailed on the English Church by its connection with Rome. But before these deeds could be transmitted to England the country was again traversed by civil war. As usual in such times, while the leaders hung back, their partisans exchanged blows. Roger Mortimer, on the Welsh marches, ravaged the estates of the earl of Leicester,¹ and was followed up by prince Edward, who took several Welsh forts and threw himself into Gloucester castle in the presence of a superior force under De Montfort's sons.² He beguiled them, it was said, into a truce, by the promise that he would obtain terms for them from the king, and as soon as they marched off, violated his engagements by taking hostages from the citizens and firing the town.³ It speaks well for the leaders of the barons that they had surrendered Dover loyally,⁴ and were negotiating about the meaning of the *Mise* in the first weeks of March. But they could not

¹ So says Rishanger (p. 20), and his account is easily reconciled with that of the annalist of Tewkesbury (p. 179), who says that the barons in council (Jan. 1, 1264) sent John Gifford to ravage the lands and destroy the castles of Roger de Mortimer, if we suppose that the order was given in retaliation.

² As early as Feb. 4, we find Henry ordering Roger Clifford, sheriff of Gloucester, to break down

the bridges over the Severn except at Gloucester, that the barons and Llewellyn might not be able to bring troops over. *Royal Letters*, ii. p. 253. They seem, however, to have crossed at Gloucester and burned the bridge behind them. Rishanger, p. 21.

³ *Annales de Dunstapliâ*, p. 228.

⁴ See the writ for surrendering it again to Henry de Montfort. *New Rymer*, vol. i. part i. p. 441.

conjure the storm. The earl of Derby hoisted their banner in a war of plunder and private feud; and the clerks and scholars of Oxford were so unmistakably anti-royalist that the king thought it well to clear the city of them before he ventured into it. A short interval of negotiation ensued. Four bishops were deputed by the barons to offer acceptance of the French award, if the king would remit the one article that concerned the employment of aliens.¹ But the march of events was outstripping diplomacy. On the 20th of March, Henry issued writs directing his followers to appear armed in ten days' time at Oxford; and the host can hardly have been mustered before it heard that the citizens of London had rejected the award; had rung the bell of St. Paul's, and imprisoned all the royal judges and officials whom they could seize, and destroyed the property of the king and his chief adherents. The parks of king Richard and of Philip Basset were especially marked for ravage, and the line of devastation extended as far as Reigate and Rochester. The week before Palm Sunday (April 13)² was marked by a worse crime. The Jews, who, it might be thought, owed the king little love, were accused of conspiring in his favour, and were almost all massacred. "The incomparable treasure found in the Jewry" was no doubt the motive and the reward of this crime. In Northampton the outcast people saved themselves from a similar fate by taking refuge in the castle.

These violent acts discredited the constitutional cause,

¹ Blaauw, *Barons' War*, pp. 104, 105.

² *Liber de Antiquis Legibus*, p. 62. The *Winchester Annals* (p. 101) say that about 700 were killed. The

annalist of Dunstaple, who sides with the barons, says (p. 230) that Greek fire was found in their houses for setting the city on fire, and false keys for opening the gates.

already sufficiently weakened by the Mise of Amiens. The envoys of the barons were dismissed contemptuously by the king with a warning not to return to talk of peace till they were sent for. Hugh le Bigot, who had been the barons' justiciary, and Henry de Percy, whose estates had been confiscated only a year before for taking part against the crown, now went over to the royalist standard. Prince Henry asked De Montfort's leave to refrain from bearing arms against his uncle and father, and received it with the contemptuous assurance that he might go and return in arms; De Montfort had only cherished him in the hope that he would be staunch. For himself, having once sworn, the earl would fight to the end even if he were left alone with his four sons. In his privacy he said bitterly to his friends, that he had been in many lands, Christian and infidel, but had nowhere met with such treachery as in England. As friends fell away new enemies appeared. The king of Scotland, Henry's son-in-law, sent large reinforcements; and a Balliol, a Bruce, and a Comyn were among the captains. It was perhaps to receive this northern contingent that Henry loitered in the midland counties, occupying himself with the capture of Northampton, which the barons had appointed as their head quarters in the north, and where the younger Simon de Montfort commanded. By the treachery of the prior the city walls were secretly undermined, and a gap opened for the king's troops when they appeared. The young De Montfort was taken prisoner in a sally, and the garrison of the castle was panic-stricken and surrendered. Gifford, De Montfort's lieutenant in Kenilworth, retaliated by seizing and demolishing Warwick castle. But the news that Rochester, where De Warenne had thrown himself, was in-

vested (April 17) and nearly reduced,¹ determined the king to march southwards to the rescue. He easily raised the siege, and De Monfort only fell back upon London in time to save it from a surprise by prince Edward. Both parties, however, avoided an immediate trial of arms. The king resolved to reduce the Cinque Ports, which were notoriously disaffected, and probably desired to draw the enemy to a distance from the capital. He flushed his troops with the spoils of battle and the ransom of Robertsbridge abbey.² De Montfort wished to consult with his party before committing the issue of the war to a single battle. It was resolved to offer the king satisfaction for the damage done hitherto, and to propose peace on the basis of the statutes of Oxford. It could hardly be hoped that these terms would be accepted. De Montfort accordingly marched south, at the head of a large army, swelled by fifteen thousand Londoners, and by volunteers from every part of the country. Having arrived (Tuesday, May 13) at the woods near Fletching, about nine miles from the priory of Lewes, where Henry had established his head-quarters, the earl halted and sent a letter to the king, briefly declaring that the barons' whole party was loyal and well affected, whatever false reports might have been spread to the contrary. The barons' envoys, the bishops of London and Worcester, then offered thirty thousand pounds as a compensation for the damage sustained by the royalists, and proposed that a committee of churchmen, canonists, and divines, should decide what statutes should remain in force, and

¹ The annalist of the church of Rochester tells us that the city was stormed on the vigil of Good Friday, fugitives dragged from the altar

of St. Andrew's church, and horses stabled in the most sacred places. *Anglia Sacra*, i. p. 351.

² Political Songs, pp. 74, 75.

how far the oaths taken were to be accounted binding. By this compromise the barons hoped to clear their consciences from the load of perjury.¹ The king answered by reproaching the earl with the troubles raised in the realm, and the damage done, by his own admission, to the estates of the crown followers, and concluded by giving that formal defiance or declaration of war which the ceremonial of feudal law required before bloodshed. The king of the Romans, prince Edward, and the royalist barons, added a separate defiance to "the public enemy," and offered to prove the falsehood of De Montfort's imputation, that they had counselled the king ill, if the earl and Gilbert de Clare would come under safe-conduct to trial in the king's court. The failure of negotiations is partly referred by some to the indignation of the royal counsellors at a proposal that the arbiters should be clergymen,² while others ascribe it to the large sums demanded by the chiefs of the royalists.³ But, in fact, an accommodation at that moment was impossible; the causes of strife were too great, the strength of the two parties too evenly balanced. Prince Edward is reported to have said, "they shall have no peace except with halters round their necks." It was known that night in both camps that

¹ Rishanger, p. 30. Stephen, bishop of Chichester, is mentioned in the *Political Songs* (p. 81) as the principal envoy. The *Chronicle of Dunstaple* (p. 231) says that there were three deputations, the first of knights, the other two of bishops.

² "En jam miles subitur dictis clericorum,
Viluit militia clericis subjecta."
Political Songs, p. 84.

³ Wikes, a royalist, says 50,000 marks were offered to the king of

the Romans as a bribe to make peace, but that he refused it. Gale, ii. p. 61. The story takes a different form in the *Political Songs*, p. 69. "The king of Alemaigne . . . Thritti thousand pound asked he, For to make the pees in the countree." I suspect the ground of the whole charge is that the compensation offered by the barons for damage done was considered inadequate by the sufferers.

the quarrel was to be voided next morning by the sword.

If the barons, as seems probable, were inferior to the king in numbers,¹ and the civic part of their force in average discipline, they had yet the great advantage of a steady religious enthusiasm. Sustained by the almost universal feeling of the clergy, recruited largely from the quiet burgher classes, under the captainship of a crusader eminent for his piety, they were leading the forlorn hope of liberty for Church and State against a perjured king, and a troop of courtiers and foreign adventurers. They had taken the white cross as their badge; they passed the night in confession of sins, and the stern unrest of warriors; and they kneeled in prayer when they came in sight of the foe. "Let us ask God," said De Montfort, "that we may do him knightly service, if our cause be right; we commend ourselves to him, body and soul."² In the king's camp there had been other vigils. The very altars were desecrated with unholy orgies, and priory and church aisles rang to the mad drinking-songs of men who regarded war as a pastime or a trade, and who were flushed with the thought of an easy victory on the morrow.³ It was the struggle of cavalier and puritan of the thirteenth century.⁴ In their general over-

¹ The Annals of Waverley (p. 356) put the king's forces at 60,000 men; the barons' at 50,000. The Worcester Chronicle, quoted by Mr. Blauw, puts the royalist army at 60,000; the barons' at 40,000. Barons' War, p. 167. These estimates are, no doubt, excessive, but may indicate the proportions of the two forces.

² Oxenides, p. 201.

³ Chron. de Lanercost, p. 74. In

the Political Songs (p. 79) the number of loose women in the royalist camp is put at 700.

⁴ Matthew of Westminster says (p. 392) that the earl of Leicester caused his chief adherents to be tonsured, probably as a protest against the long love-locks of the courtiers. It curiously completes the parallel with the Roundheads.

confidence the royalists neglected to secure the heights that lay between themselves and the enemy, and were roused by learning that their outposts were driven in, and their convoys of forage captured. De Montfort thus gained the great advantage of crowning the brow of the hill close to the town and awaiting attack.¹ His forces were arranged along three spurs separated by deep hollows; two of his own sons heading the right, De Clare the centre, while the left, near Lewes castle, was allotted to the Londoners under Nicholas de Segrave. De Montfort himself took his post in the reserve. The litter which his accident had constrained him to use was left on a high ridge of the hill with a banner to attract the enemy: it contained the four citizens who had tried, five months before, to betray London to the king. On the king's side, prince Edward was the first to draw out his troops on the right, and his impetuous charge easily broke the Londoners. In his eagerness to avenge the insult once offered to his mother, the prince forgot the first duties of a general, and continued an impetuous pursuit over four miles, slaughtering three thousand men. A part of his knights hurried to the spot where they saw De Montfort's litter and flag, and slew the wretched men inside—it was said, by one account, burning them—without perceiving their mistake. When they at length turned rein the main battle was already lost. The royalist centre, under king Richard, was disordered by De Montfort's artillery; the royalist left overwhelmed—De Montfort bringing up his reserve—and driven back confusedly on the priory and the town. The faults of

¹ Throughout the account of the battle of Lewes I have followed Mr. Blaauw's excellent description, based

upon thorough knowledge of the locality.

a position which left no room for manœuvring, and which had a river at the rear, were then fatally evident. King Henry, who had fought gallantly, and whose horse had been killed under him, was obliged to shelter himself in the priory:¹ king Richard, cut off from flight, took refuge in a mill; hundreds of gentlemen and common soldiers perished in the Ouse, and in the marshes near it. Among the slain, it is said, were many women who had followed their last night's lovers into the field, and who were now mercilessly cut down. When prince Edward at last returned from the pursuit, the ruin of the royal cause was so evident that his soldiers—victorious as they had been—quailed and fell from him, and would not renew the fight. With an honourable feeling he cut his way through the investing forces into the priory, at a spot where their lines were weakest, and joined his father. But by this time king Richard was a prisoner, the mill having proved untenable. It was hopeless to continue the struggle, though, desperate as it had been, the royalists who could not fly were prepared to die sword in hand sooner than surrender. They had some reason for fear, as king Henry had hoisted the red dragon banner in sign that no quarter was to be given.² De Montfort was more merciful. He had let the sword slay during the day; he now granted an armistice.

¹ The *Annales de Waverleia* (p. 357) say that the king surrendered to Gilbert de Clare; Rishanger (p. 33), though his language is ambiguous, appears to say, in the Barons' War, that the king was brought in to the fugitives who had taken shelter in the priory. The *Chronicles* published as Rishanger's say (p. 27), that the king surrendered, and was shut up by the earl of Leicester in the

priory. Hemingburgh says (i.p. 316), "*sui reduxerunt regem in abbatiam*," and this account, which is confirmed by Matthew of Westminster (p. 393), appears to agree best with the course of events afterwards.

² Rishanger, p. 32. It had already been unfurled on the march to Northampton. *Annales de Dunstapliæ*, p. 229.

Time could only convince the royalists of the hopelessness of resistance. Even if they could escape, which was more than doubtful from the lines drawn round them, they could not expect to reorganize a broken party. The numbers that had fallen on either side are estimated at five thousand in all, and as pretty evenly distributed between the two, by the best informed among our chroniclers; but on the barons' side the victims had been obscure citizens and bad soldiers; on the king's, the flower of the nobility and his best veterans. Two royal justiciaries and twenty-three barons had been taken or slain, while the king's half-brothers, the earl Warrenne, and a crowd of minor men, had fled beyond sea or to their homes. Under these circumstances the terms granted by De Montfort were certainly moderate. The prisoners on both sides, except apparently the king of the Romans, were to be released without ransom; the differences between the king and barons were to be referred to French umpires named by king Louis, and assisted by English counsellors: the king was to observe Magna Charta and live moderately on his own means: prince Edward and prince Henry were to be kept as hostages for the consent of those royalists who had escaped the battle and were not parties to the compact; and the barons and their partisans were never to be called to account for their share in the present war.¹ It had been at first intended to make the king himself hostage for the proper performance of this Mise of Lewes. Prince Edward saved him from this disgrace, and retrieved his ruined popu-

¹ So says Knyghton (c. 2451), and the Chronicle de Lanercost (p. 75) complains that they were held to ransom in many cases. Wikes, however, makes no mention of the con-

dition, but says almost all the royalist nobles were imprisoned, which is clearly an exaggeration. Gale, ii. p. 63.

larity by this generous surrender of his own liberty.¹ He was at once committed to strict but honourable confinement in Dover castle. De Montfort accompanied the king, who was only not a captive in name, to London. Writs were sent down into the counties announcing that peace had been concluded, and ordering the custody of all the royal castles to be transferred to the barons. The course of law went on as usual in the royal courts. But order was not re-established. The garrison of Tonbridge, disregarding the royal commands to give up the castle, forced their way across the country and held Bristol in the king's name against the king's writ.² The countess of Albemarle, refusing to acknowledge De Montfort's authority, was sold for five hundred marks to his second son, and only escaped seizure and forcible marriage by flight into the marches of Wales.³ Above all, private war afflicted every part of the kingdom, and armed bands of horsemen traversed the country, plundering in the name of the king or the barons indifferently. Only a day before the decisive battle a part of London about Westcheap had been treacherously burned down.⁴ Right or wrong, De Montfort had triumphed as the head of a party, and that, perhaps, a minority among Englishmen. It remained to be seen if his government would establish a firmer order than that against which his sword had recorded a victorious protest.

¹ New Rymer, vol. i. part i. p. 456.

² Knyghton, c. 2451.

³ *Placitorum Abbreviatio*, p. 172. Compare a little anecdote in the *Calend. Geneal.*, i. p. 142. "The jurors say that Henry de Marke had a sister, named Rose, who was carried off in Tey church during the

war by master Geoffrey Dinaunt, and had by the said Geoffrey a daughter, who is 2½ years old: but they know not at all if the said Geoffrey married the said Rose."

⁴ *French Chronicle of London*, p. 5. Compare, however, *Matthew of Westminster*, p. 388.

CHAPTER VIII.

SIMON DE MONTFORT.

PARLIAMENT OF LONDON. SCHEME OF GOVERNMENT. FAVOUR SHOWN TO THE CLERGY. LEGATE'S SENTENCE OF EXCOMMUNICATION. SECOND PARLIAMENT OF LONDON. UNPOPULARITY OF DE MONTFORT AS REGENT. QUARREL WITH THE EARL OF GLOUCESTER, AND ESCAPE OF PRINCE EDWARD. WAR IN THE WELSH MARCHES. SURPRISE OF KENILWORTH. BATTLE OF EYESHAM. TRIUMPH OF THE ROYALISTS THROUGHOUT ENGLAND. SIEGE OF KENILWORTH. DICTUM DE KENILWORTH. PARLIAMENT OF MARLBOROUGH. LAST YEARS OF THE REIGN. CHARACTER OF HENRY III. MATERIAL PROGRESS UNDER HIS REIGN.

THE writs issued in the name of the captive king bear the mark of that dignified respect for constitutional forms which seems native to every free people. Without deviating into invective or apology, they cover the king's defeat at the very moment of proclaiming the barons' victory. "Whereas," it is said, "by the mediation of divine grace, the trouble that lately was in our realm is quieted, and peace ordained and confirmed between us and our barons; be it enacted, by the counsel and assent of our barons," that the prisoners lately made by the royalists be brought up to London, apparently to await the issue of events;¹ that no man

¹ Mr. Blaauw says some of the prisoners on each side were certainly released without ransom. (Barons' War, p. 193). Probably some were

exchanged, and later on some may have been set at liberty by the earl of Gloucester to conciliate partisans. But Rishanger (p. 43) speaks of the

presume to bear arms without special licence, under peril of life and limb; and that all feuds, homicides, robberies, and other incidents of war cease. The barons did not even presume to take the appointment of sheriffs into their hands for fear they should seem to be encroaching on the powers of Parliament. But as the counties could not be left without sheriffs, or in the hands of royal nominees, guardians of the peace were appointed (June 4), one in each county, to repress disorders, or report offenders who were beyond control to government. They were also to cause four qualified and discreet knights of the county, elected by its freeholders, to be sent as its representatives to London on the 22nd of June. It is noticeable that these writs were not issued to ten counties, which are so variously distributed that no probable reason can be assigned for the omission, except that they were royalist.¹ As, however, there is no notice of the knights' share in the proceedings of Parliament, it may be presumed that they attended only as witnesses, or to report the public opinion of their districts. There is certainly no trace of any popular influence in the scheme of government

"in carceratorum amici" just before the summer campaign of 1265; the *Liber de Antiquis Legibus* (p. 76) speaks of prisoners in the tower and at Windsor being set free after the battle of Evesham; and the *Chronica Rishanger* (p. 32) ascribe De Montfort's unpopularity to his claiming "the prisoners' ransoms." The simplest explanation seems to be that the barons made a conditional promise of releasing without ransom, and considered themselves absolved from it by the conduct of the king's partisans.

¹ Cornwall would be influenced by king Richard: Surrey and Sussex by the earl of Warenne, John Fitzalan, and Henry de Percy: Humphrey de Bohun, earl of Hereford, was royalist: and the king's cause was generally strongest in the West and North, the least civilized parts of the country, where Gloucestershire, Worcestershire, Cheshire, and Lancashire lay. Cheshire and Durham may, however, have been excepted as counties palatine, and Middlesex included in London.

promulgated by the Parliament of London and agreed on, with a most suspicious celerity, within four-and-twenty hours. Three persons, not aliens, were to be elected, who were to nominate nine others as the king's permanent council: and the king was to name all officers of state, great or small, by the advice of these. An obnoxious counsellor was only to be removed by consent of the first triumvirate, and an obnoxious official by permission of the council. The three themselves were to hold their office permanently, unless the whole community of the realm should see fit to displace them. A few minor enactments provided that the king and his son were to lay aside all rancour; that the new officials were to swear to serve the state faithfully, and accept no presents except of eatables; that peaceful merchants and travellers might circulate freely in the kingdom; and that aliens were to hold no offices. The election for the three counsellors fell upon Simon de Montfort, the young earl of Gloucester, and the bishop of Chichester. While the general plan of government adopted at Oxford six years before was renewed in this scheme, its details are evidently more obligarchical. It was no longer felt necessary to admit a royalist element. The result was a strong government for the moment; but without the broad basis which alone can withstand the shocks of a revolutionary epoch.

Among the resolutions passed by De Montfort's first Parliament was one that the state of the English Church be duly reformed. This does not seem to have had reference to the old abuses of papal misgovernment, and perhaps no prudent statesmen could be expected to embroil himself with the head of the world's spirituality at his first entrance upon power. Rather the question seems to have been how far the claim of the

Clergy to be exempt from lay jurisdiction was to be maintained. The tendency of Henry III.'s government had been to maintain the rights of the state with a creditable and most anomalous vigour; and an attempt had even been made, in 1247, to imitate the Gallican liberties established by St. Louis—an attempt which proved abortive from the English king's character, but which was destined to bear fruit in time.¹ Accordingly, only three years before an English council at Lambeth had complained that men in orders were constantly imprisoned by laymen, and banished or otherwise punished by lay tribunals, and that the king's courts seized every opportunity of deciding claims for property bequeathed against the Church. Spiritual censures were freely threatened against all transgressions of this kind, and fell seemingly without effect.² During the late disorders the clergy had been especial sufferers. A commission of three bishops was appointed to sit for a year or more, as the case might require, with or without lay assessors, and inflict appropriate fines on all offenders. These were to be enforced by the civil power; and a body-guard of a hundred men was to be granted if slighter measures should appear inoperative. In the case of offences against churches something like martial law was to be enforced. Those who had taken clergymen captive were to be fined heavily. Priests who had borne arms might be pardoned if it had been on the side of justice, but if otherwise, might lose their benefices or their orders; and if they were resident in another diocese from that in which the damage was done might be tried by the local ordinary. These

¹ Paris, Hist. Major, p. 727.

² Wilkins' Concilia, i. pp. 747-753.
Compare Grosseteste's statement of

church-grievances at an earlier period of the reign. Annales de Burton, pp. 422-425.

ordinances were never actually enforced. But their spirit is so clearly in the interests of the Church against crown and gentry, that they help to explain De Montfort's popularity with the clergy, his place among miracle-workers after death, and his failure in government. In fact, his attempt to let the clergy collect their own taxes was so hopeless from the first that within three months' time he was compelled to threaten a distraint by the secular arm.¹

Whilst parliament was deliberating, England was threatened with a foreign invasion. The queen had begun collecting troops on the Continent, and was now at Damme in Flanders with Breton, Gascon, and Spanish mercenaries around her flag, recruited and animated by the fugitives from the field of Lewes. A peremptory letter, enjoining the archbishop of Canterbury to return to England (June 25), mentions that the English clergy—no doubt, if they belonged to the barons' faction—were not able to traverse France safely. A fortnight later a general levy was ordered throughout the kingdom for the first week in August to defend the realm against the alien (July 8). Royal letters were despatched to the king of France, the count of Anjou, and the more eminent French prelates, assuring them that Henry had accepted the Mise of Lewes, and deprecating any preparations for war.² Nevertheless, either because the danger did not seem pressing, or from the habit of legality imposing as it were an imperial moderation, we find De Montfort, in the middle of July (July 16), obtaining a royal writ for permission to travel with an armed escort. There was, probably,

¹ New Rymer, vol. i. part i. p. 445.

² July 10, Aug. 2, and Aug. 4; Royal Letters, ii. pp. 257, 264-269.

as much need of money as of men, for the tenth lately voted by the clergy was collected in all haste under threat of distraint. Thanks, however, to these strong measures, and to the hearty good will of the people who flocked by thousands to Barham Down, the country was able to tide over the crisis. It was said that the queen's fleet was prevented setting sail by contrary winds. The contrary winds that lasted over a whole summer must be explained rather by politics than by climatology. The English ships, however, were keeping careful watch as late as September.

Meanwhile Simon de Montfort did not neglect to negotiate. He first selected his prisoner, prince Henry, as an envoy to explain the peace of Lewes, probably fearing lest Louis should refuse to receive an ambassador from the barons' ranks. In fact, the feeling in France was so strong that the prince's suite was attacked in Boulogne, and nine of his followers killed. The French seem to have resented the non-acceptance of the Mise of Amiens as a national insult, and the king's captivity as an outrage on all monarchical sentiment. Nevertheless the mission so far succeeded that the peace was referred for examination to a committee of five—two Englishmen nominated by De Montfort, and three Frenchmen, one of whom, Charles of Anjou, was notoriously favourable to the barons' cause.¹ Only on the article of aliens it was intimated that no compromise was admissible; and there seem to have been private instructions that the question of the royal captives and hostages was not to be discussed. An unex-

¹ So says the *Chronicon Roffense*, f. 175 (quoted by Mr. Blaauw); and the *Annals of Dunstaple* (p. 259) relate that he entertained Guy de

Montfort, in exile, and married him to the daughter of an Italian count. He even continued his patronage after the murder of prince Henry.

pected obstacle interrupted the negotiations. Guido of Sabina, a man of high cultivation, to whom literature owes the works of Roger Bacon, had been dispatched by Urban IV. with a legatine commission to arrange the English difficulty. Arrived at the coast of France, the legate found to his indignation that De Montfort had issued peremptory orders not to admit him into the kingdom. Secure of the English Church, the earl could defy Rome. Guido threatened church censures if the prohibition were not taken off, and summoned the primate and four bishops known as partisans of the barons to attend him at Boulogne. The four prelates were forbidden, and for some time unable, to cross the channel. When they at last succeeded (Sept. 8), stimulated by canonical penalties, they were directed to take back with them bulls of excommunication against the earl of Leicester and his family, the citizens of London and of the Cinque Ports, and the earl of Gloucester's followers. Their mission was reported, and the barons' emissaries threw the bulls into the sea, and forbade the prelates to publish them as they valued their lives. Guido was compelled to content himself with forbidding all trade in corn, wine, and other necessities of life, between France and England. It was a paper blockade; but in the state of public feeling at the time it worked with terrible efficiency. The channel swarmed with pirates, who slew the crews of every merchantman they captured; and French merchandise rose from two to three hundred per cent. in the English market. It was, probably, in retaliation that Leicester allowed his son to sequester all the wool intended for export, and the manufactured stuffs sent over from Flanders. The earl is even said to have talked of England's ability to maintain itself without any reliance

on foreign trade. The sentiment was unwise and below the intelligence of the times, unless we take it as the expression of a resolute purpose to endure all. In the excited state of public opinion it was caught up eagerly, and men affected to show themselves in native fabrics of undyed wool.¹

How active and how unscrupulous the royalist exiles were is shown by the fact that the government was obliged to issue a formal protest against any alienation of the transmarine provinces. At home the North, under the influence of the king of Scotland and of John Balliol, was in open rebellion. In the West it was even worse. Hamo l'Estrange, a noted captain of banditti,² ravaged the Welsh marches; and the wardens of Bristol made a raid as far as Wallingford castle, and assaulted it in the vain hope of setting king Richard at liberty. De Montfort's energy, and the rising of the whole country, were required to drive them back beyond the Severn: Llewellyn's appearance in arms against them, and the feeling that they could do nothing until prince Edward was set at liberty, constrained them to sue for peace. A Parliament was summoned to debate its terms at London (Jan. 20), and to this from an afterthought apparently, by writs issued ten days after the first summons to lords, bishops, and knights of the county, representatives from the boroughs were called up. In this sense it was the first perfect exemplar of a modern English Parliament. The reason of the innovation may probably be found in the need of filling up the gaps that the absence of the royalist baronage would cause. It is an instructive commentary on the war to know

¹ The account in Wikes (Gale, ii. pp. 64, 65) agrees very well with the legate's report to the pope. New

Rymer, vol. i. part i. p. 447.

² "Prædo nominatissimus." Rishanger, p. 40.

that only twenty-three earls and barons, (even including those already in the council), were summoned to this assembly,¹ in which a hundred and twenty ecclesiastics sat. The first proceedings of the assembly were to ratify a late convention by which the leaders in the late troubles on the marches were to go into exile in Ireland for three years.² But the point which the royalists had most at heart, and which the barons most dreaded, was the freeing of prince Edward. It was almost equally dangerous to let him loose on the country, and to keep him any longer in prison, an object of general sympathy. At last, after nearly two months' deliberation (March 11),³ the articles of a formal treaty between the rival interests were agreed to. The form of government established in the preceding summer was re-enacted and recapitulated. All quarrels between the two parties were to be mutually condoned, and any offence against this article punished with outlawry and disherison. The great charter and the forest charter were to be sworn to by all officers of state, great and small, and no obedience was due to them till this oath had been taken. No aliens were to be brought into the kingdom except by licence of the council. Prince Edward in particular was pledged not

¹ Nine northern lords were, however, invited to attend under safe-conduct. But this was probably meant only as a summons to put themselves on their trial. New Rymer, vol. i. part i. p. 450.

² Wikes, Gale, ii. p. 65. Rishanger (p. 41) says more generally that the greater part of them were to go abroad for a year. So Westminster, p. 385.

³ The exact date is difficult to fix. The document in Rymer (vol. i. part

i. p. 452) says it was agreed to the last day of March, and adds in the next line that it was the vigil of St. Gregory, March 11. Matthew of Westminster says (p. 390) that after making the agreement, the king kept Christmas at Woodstock. This is clearly wrong. Probably some time elapsed before the agreement was formally engrossed, and a second parliament seems to have been called at Westminster for that purpose.

to introduce foreigners, or even to go abroad; and his castles, for better security, were to be given into the hands of the council of state, or, in some instances, exchanged for other lands with the earl of Leicester. Lastly, king and prince were to pledge themselves not to procure any absolution from the engagement now entered into. After public signing and sealing by the king, by his son and nephew, and by a number of eminent witnesses, a copy of this compact was sent down into every county in England to be read at the sheriff's tourn twice a year.

De Montfort's real difficulties now began. His acquisition of prince Edward's castles was undoubtedly justified by policy, as they commanded the turbulent march districts, and was paid for in land of his own: yet men murmured at it as proof of a grasping avarice. In the same spirit it was said that he had sequestered to his own use king Richard's property, which he really administered in strict stewardship;¹ and a vaguer charge declared that he had seized eighteen baronies, which it is known did not leave him a richer man at his death, and whose names have never been ascertained.² With

¹ See the royal writ of December, 1264, reciting that the earl has the custody of king Richard's lands, whose bailiffs are to see that the earl does not incur any liability, in the event, I presume, of accounts being examined afterwards. New Rymer, vol. i. part i. p. 448.

² Wikes, Gale, ii. p. 63. The charge acquires a partial confirmation from a return in the "Inquisitions after death," as to a tenement in Sprouton, which is returned as having been seized by Simon de Montfort on the ground that it was in the occupation of the bishop of

Norwich. *Calend. Geneal.*, i. p. 121. It is certain there were some confiscations of land. "William de Lafford, in the beginning of the preceding war, was ejected from his land in Aspel and Eye by the barons. And the same barons gave the aforesaid land to Thomas de Bray." *Calend. Geneal.*, i. p. 167. But the forfeitures were probably confined to the estates of those who refused to accept the Mise of Lewes, and who were in fact rebels for the time being. De Montfort could hardly have refused to accept a share in these spoils without provoking a sus-

more truth it may be said that his sons seized a portion of the spoils of office, and that the suspension of the Flemish trade was aggravated by Henry de Montfort's monopoly.¹ But the earl's real offence was that he could not brook disorder or tolerate a rival. He flung the earl of Derby, who had taken up arms in the barons' cause and used them for his own profit, into prison.² He refused to let the staunch veteran, John Gifford, hold a prisoner to ransom against the Mise of Lewes, and Gifford in disgust went over to the earl of Gloucester's party.³ De Clare's grievances were, that the earl of Leicester named all the wardens of castles

picion that he was playing a double part. Possibly the eighteen baronies alluded to are king Richard's, as he held exactly that number. Nicholl's *Leicestershire*, vol. i. p. 203.

¹ Wikes accuses him of having seized all the wool in transit at Dover, and sold it for his own benefit. The charge in this shape is incredible, but it seems likely that he may have trafficked in permits to send it out of the kingdom. The *Liber de Antiquis Legibus* (p. 73) accuses the De Montforts of having allowed the Cinque Ports to practise piracy, themselves receiving a third of the plunder.

² Rishanger says (pp. 20, 21) that the earl was charged with wasting the king's lands after peace had been proclaimed, and with treasonable correspondence with the lords of the marches; and this is not inconsistent with the language of Wikes (p. 66), who says that a heavy charge was brought against him in the king's name, though the royalist of course asserts that it was to forward De Montfort's private ambition. The earl of Derby had in fact been treated

too well. He had refused to join the march upon Lewes, and had sacked Worcester for his own private gain: but having waged war at the head of a large army, in Nov. 1264, against the royalists of the marches (*Ann. de Dunstapliâ*, p. 233), these offences had been overlooked, and he had been summoned to the parliament at Worcester. The fact that he was practically ruined by the terms allowed him in the *Dictum de Kenilworth* seems to show that he had really been as violent against the king as faithless to De Montfort. Indeed, the *Annals of Waverley* (p. 358) say that De Montfort imprisoned him to save his life, the king demanding that he should be put to death "for the monstrous damages and burnings which he inflicted after and before the battle of Lewes."

³ Mr. Blaauw prefers this account from Robert of Gloucester and *Add. MSS.* 5444 (*Barons' War*, pp. 179, 227), but Wikes (p. 66) says that the earl held Gifford to bail for having occupied lands without authority. Probably there were several occasions of quarrel.

by his own authority, that he claimed king Richard's ransom, and that he forbade a tournament at Dunstaple which was meant to be a fight between De Clare and the young De Montforts, and prepared to seize any who should come there. The first charge, if it really meant that De Montfort usurped the powers of the council, was certainly not without cause; but the probability is, that the earl of Leicester carried his colleagues generally with him, and did not care to conciliate a single dissident. To the second it might fairly be answered, that De Clare had been already repaid with the guardianship of the estates of Philip de Savoy and William de Valence. But hot words passed between the two earls, and De Montfort at last told De Clare that he might be satisfied with having saved his own lands.¹ About the forbidding of the tournament, allowed neither by canon nor common law, and doubly dangerous in such times, there cannot be two opinions.²

Towards May the situation became critical. The government, aware of its weakness, tried to push negotiations in France and obtain an award from Louis which might undo the effects of the Mise of Amiens (May 18). But by this time De Clare's fidelity was so openly suspected that it was thought necessary to threaten all who doubted it with punishment (May 20). He was, in fact, in secret correspondence with the chief royalists and the lords of the marches who had either never left England or were flocking back to the scent

¹ A reply which would have been singularly inappropriate if De Montfort had not been so contented himself.

² Rishanger says (pp. 1, 2) that when the tournament at Dunstaple was forbidden another was appointed

at Northampton, and again forbidden. The *Chronica Rishanger* (p. 32) add that De Montfort threatened to put his sons, if they disobeyed him, in a place where they should see neither sun nor moon.

of battle from Ireland and the Continent, and who occupied Pembroke openly.¹ De Montfort with the king, whom he never left, was at Gloucester watching events, and his treacherous colleague, De Clare, who was at the head of an armed force in the forest of Dean. Suddenly the news came that prince Edward had escaped. Restored to nominal liberty, he had been placed under the surveillance of Thomas de Clare, in whom De Montfort placed undoubting confidence, and was the less guarded as he was believed to be himself favourable to peace. Having taken up his quarters at Hereford, from which escape to the royalist camp was easy, he tired out the horses of his escort in races, and rode off on his own fresh steed from the bewildered company (May 28). Then De Montfort knew that he was again at war with the whole power of the Crown; and by a last exercise of the authority which the king's presence gave him he summoned all the force of the kingdom to arms. A week later (June 7) it was necessary to denounce the earl of Gloucester, who joined the prince, taking, however, an oath from him that he would obey the laws. Even the Church was called in, and the bishop of London excommunicated the prince and all his followers. But generalship was more needed than the aid of Church or law.

By most unfortunate tactics De Montfort left the main forces of his enemy between himself and his base of operations, and crossed into south Wales,² apparently that he might close England against further royalist recruits from that quarter, destroy De Clare's castle at Monmouth, and place Edward between his own re-

¹ See a letter dated May 10. Royal Letters, ii. p. 282.

² He was at Monmouth, June 28. New Rymer, vol. i. part i. p. 457.

cruited army and the forces coming up from the south and east. The earl probably relied on the garrison he had placed at Gloucester, and on the friendship of the Bristol townsmen to secure him a safe return.¹ He soon found that it was impossible to effect anything with an English army moving over bad roads in a barren country; and his only success was in concluding a treaty with Llewellyn, whose assistance was purchased by the surrender of all that had been wrested from him during the reign for the nominal payment of 30,000 marks—a curious pendant to the royalist negotiations in France.² Meanwhile the prince had marched down from Chester and taken Gloucester³ (June 29), destroyed the ships with which De Montfort attempted to cross the Bristol channel, and broken down the bridges over the Severn. His plan was to shut the earl up in the principality, while he overwhelmed his adherents elsewhere in detail. It succeeded admirably. The recruits who flocked in small companies to the earl's standard were cut off as they tried in vain to find a passage across the Severn. The younger Simon de Montfort, who had been besieging Pevensey, marched across country, sacking Winchester by the way (July 14), and had reached Kenilworth⁴ (Aug. 1), at the

¹ Mr. Blaauw, following Robert of Gloucester, thinks that Bristol was held by a royalist garrison to the last. (*Barons' War*, p. 238). Mr. Lucas quotes a precise statement that Bristol castle had been given up on the receipt of letters from prince Edward, but does not give his authority. *Proceedings of Archæol. Inst.*, 1853. This seems the more probable account as the writ in Rymer of June 9, p. 20, directing the townsmen to hold town and castle

against all but De Montfort, would otherwise be unintelligible.

² Llewellyn levelled all the castles of which he obtained possession. *Liber de Ant. Legibus*, p. 74.

³ *Annal. de Waverleia*, p. 362.

⁴ "In festo S. Petri ad Vincula." *Rishanger*, p. 44. "In vigilia festi S. Petri ad Vincula." *Wikes, Gale*, ii. p. 69. The *Annals of Waverley*, however, say (p. 363) that after the sack of Winchester, and three days' stay at Oxford, he had been six days

head of a considerable force, when he learned of his father's difficulties. But for greater comfort, it is said for the sake of the baths, he fixed his quarters in the priory instead of the castle, and he and his men were surprised next morning by the shout of the enemy's troops in the streets and at their beds. The whole force was routed or taken, and young De Montfort was lucky in escaping almost naked with a few followers into the castle. Flushed with victory, and their very foot-boys mounted on knightly chargers, the royalists turned back towards the Severn, over which De Montfort had at last thrown his troops, having found or made boats. The earl's army, divided into two large bodies, was marching from Kempsey, near Worcester, on Kenilworth, to join his son, of whose defeat no tidings had reached him. This ignorance, the more remarkable as it is said he had spies in prince Edward's camp,¹ goes far to show that the population of the line of the Severn went heartily with their natural lords, the earls of Chester and Gloucester, against the constitutional cause, whose chief adherents were in London and the more civilized south-east. The same local division is noticeable in the wars of the Roses, and in those of the Commonwealth.

De Montfort and his army were just issuing from the narrow tongue of land where the Avon winds round Evesham, when they saw the soldiers of prince Edward in the distance. The banners taken at Kenilworth

at Kenilworth. The Annals of Melrose say that he slept outside the castle in order to begin his march early next day. Gale, ii. p. 230.

¹ Wikes, who mentions this, ascribes De Montfort's surprise to a

feigned march of the royalists on the Shrewsbury road; but although Edward was forced to act as if his enemy were apprised of his movements, it seems certain that De Montfort knew nothing of what had happened.

were flying in front of the royalist line, and at first gave the idea that the force advancing was a friendly one. When the error was discovered, the royalist advance, covered by the hills in the neighbourhood, had already interposed troops between the two wings of the barons' army, and a third division under Roger Mortimer was behind them, cutting off their retreat. Prince Edward's forces were the more numerous, and he marshalled them in a faultless battle-array; "they come up well," said De Montfort, with a sort of bitter pride; "but they have learned that ordering from me, not from themselves; let us now commend our souls to God, for our bodies are undone." Yet, inasmuch as there was still time for flight, he prayed the nobles round him to quit the field and reserve themselves for better times, when they might do the realm service. But his followers knew that their chief would never turn his back upon the foe; there was this in his blood, he told them that he could not fly, or wish to fly from battle; and, with the spirit of English gentlemen, they resolved to fall around him. And so in the light of death they marched out into the open fields, lost men in a lost cause, and awaited the furious charge of the royalists. The light-armed Welsh troops were the first to scatter before the shock of battle and hide among the corn-fields and gardens, where hundreds of them were followed up and cut to pieces. Even many of the earl's English followers went over to the enemy and did duty against their general. But the flower of his army, the lords and gentlemen, gathered into a serried battalion round their leader, and fought fiercely for two hours against the troops who hemmed them in. De Montfort himself, dismounted and wielding his sword with both hands, stood at last like a tower among his few sur-

viving followers: Basset and Despenser lying dead near him. Prince Edward wished to take his great enemy alive; but the battle was too hot for quarter to be asked or given, and when De Montfort was at last summoned with a "Traitor, yield thyself," he fell, by a blow from behind, saying, "It is God's grace," overborne rather than conquered.¹ His body was shamefully mutilated, and his hands and head were sent to Maud, the wife of Roger de Mortimer, a second Herodias.² Among his followers the sword raged relentlessly; it was rather a massacre than a battle; and two noble youths were butchered in cold blood, one of them on his first day of service. The old king himself had almost fallen on the side his heart disowned. Placed in the front rank, and disguised by his vizor beyond recognition, he was wounded in the shoulder before he could declare his name. The exasperation of the royalists may be explained if it cannot be excused by this wanton exposure of the harmless man.

It is difficult with our imperfect knowledge to do entire justice to De Montfort's character. A saint in the estimation of his contemporaries, wearing hair-cloth near his skin, loving the company of churchmen, and defending their liberties, he seems throughout the latter part of

¹ Oxenedes, p. 208. Hemingburgh, however, says (i. p. 325) that when the earl was dismounted and hemmed in a narrow ring with his son and friends, he asked if they gave any mercy. He was answered, "What mercy for a traitor?" and then said, "God pity our souls, for our bodies are in your hands;" the remark assigned by Rishanger to the beginning of the battle. Edward was pre-

sent, and is said to have shed tears at the funeral of Henry de Montfort, his father's godson. *Chronica*, Rishanger, p. 37.

² The *Chronica de Mailros*, Gale, i. p. 232, say that she refused to receive the horrible gift, but they mix up the story with miraculous incidents, and it is unsupported by other evidence.

his career to have regarded his patriotic policy as an expiation of his unhallowed marriage, and, by a noble superstition, to have served England that he might reconcile his soul with God. It is easy to make, and difficult to disprove, the charge of personal ambition against him. It must be remembered, however, that he was among the last to join the movement for reform at Oxford; that for such a man as himself, whatever meaner men might do, no honourable compromise was possible when his side had once been chosen; that no single step in his career indicates any change of purpose or self-seeking, and that he spoke and acted to the last as a man of stainless honour. His weakness lay in a certain high-handedness of manner and unguarded licence of speech; he was less patient than a statesman ought to be of baseness and unwisdom. Never quailing before opposition, never broken by trouble, he held his way in the teeth of opinion, "as though," says one of his chroniclers, "the Holy Ghost inspired his consciousness of high nobility." But perhaps no man at that time could have conducted a rebellion against the enormous power of the crown with more eminent success; and those who judge only by the event, may remember that he defeated a more popular monarch than John, supported by such a soldier as prince Edward, and backed by the public feeling of Europe, without calling the foreigner into London. His few years of opposition and power did more to make illegal taxation impossible than the half century since Magna Charta, with all its confirmations, had done, and from him dates the first august fulness of our English Parliament. Yet we need not regret that his tenure of power was short. From the necessities of his position, as the leader of a minority among the upper classes, his

authority must have been propped on force, and his government oligarchical. Both from temperament and from position he inclined to favour the highest claims of the national Church, and he granted it better terms than any pope had demanded or any king had allowed, and tried offenders against it by something like martial law. Even foreign favourites and officials were less dangerous to the people at large than the power of a young De Montfort or De Clare, and the tribute to Rome was a light evil to what an English patriarchate under even a Grosseteste would have proved. It was Heaven's last gift to the great earl that he died when all that life could win had been achieved. The good lived after him; the evil "was interred with his bones."

The battle of Evesham was accepted by the whole nation as a decisive blow. Kenilworth and Dover still, indeed, held out for De Montfort's sons, rather than for De Montfort's cause, but the barons generally set their prisoners at liberty, and awaited the turn of events, while royal commissioners traversed the different counties, sequestering the lands and goods of all who had aided or favoured the late rebellion. Within five weeks a parliament of magnates was held at Winchester (Sept. 8),¹ to which even the wives or widows of the barons taken or killed in battle against the king received letters of summons.² The exception of the four bishops of Lincoln, London, Worcester, and Chester, was probably due rather to some censure they were

¹ In festo Nat. beatæ Mariæ, (Sept. 8); Rishanger, p. 48. Ad festum exalt. S. Crucis (Sept. 14); Ann. de Waverleia, p. 366. It was broken up by the news of Llewellyn's invasion, and Henry went to Windsor and afterwards to London, that he

might keep the feast of St. Edward's translation, October 13. Immediately after this he received news of the surprise of Dover. Wikes, Gale, ii. p. 72.

² Annales de Waverleia, p. 366.

under from the legate than to any fear of their influence in opposition. In fact, the royalist party was too strong to be controlled, and had suffered too much to be merciful. They shed no blood, for where allegiance was almost entirely a personal tie, the feeling of the age would not have endured an extreme punishment for treason. But they confiscated the lands of all who had joined the late earl of Leicester, except on compulsion; deprived the city of London of its charter and fortifications; ordered that the countess of Leicester should leave the kingdom with all her family; and annulled all the acts of the late parliament. The confiscations, of course, enriched the king's family and adherents. But they created a large body, numbering altogether, it was said, more than a thousand of men, known as "the disinherited," who identified the new order with their own ruin, and whose only hope was in the sword.

Accordingly, during two years, in spite of prince Edward's energy and success, the war smouldered on. The capture of Dover (October), where the royalist prisoners contrived to seize the tower and hold the garrison in check, was among the first episodes of the autumn campaigns. But Llewellyn of Wales had poured an army over the marches (September), while the young Simon de Montfort put himself at the head of a guerilla force in the isles of Axholme and Ely (November). Prince Edward speedily reduced him to sue for terms (December 28), which the king of the Romans and the prince himself were to fix.¹ As king

¹ So says Wikes, but Rishanger says (p. 50) that Philip Basset, the justiciary in 1261, was to be the other umpire. He had fought at Lewes

on the king's side, but his daughter had married Hugh Despenser, after De Montfort the most trusted among the barons.

Richard had lately owed his life to the young De Montfort, who had protected him and set him at liberty, when the garrison of Kenilworth clamoured to revenge the death of the earl of Leicester upon their prisoners, it seemed for a time as if a reconciliation were possible, and Simon actually came to court and received the kiss of peace from the king. But the earl of Gloucester hated his former party with the bitterness of a renegade, and by his influence the terms offered were confined to a pension of five hundred marks in return for the surrender of Kenilworth, and at the price of going into exile. Simon was inclined to agree, but the garrison of Kenilworth declared that they owed service to his mother not to him, and would only resign to her. Before long Simon suspected treachery at court, and fled back to them. But the area of the insurrection was gradually lessened by prince Edward's energy. The men of the Cinque Ports were alarmed by tidings of what had happened to London, where the mayor and forty of the chief citizens had been allured, under letters of safe-conduct, to Windsor, and thrown into prison (October), while the king had confiscated houses and lands mercilessly. Nor were prince Edward's dealings with the burghers of Winchelsea, some of whom he had captured and hanged, more reassuring. Accordingly, they put to sea with their wives and children, burned Portsmouth, and though beaten at Winchelsea (March 7, 1266), and compelled to place themselves at the king's mercy,¹ obtained a full pardon and the confirmation of their franchises. The followers of Adam Gordon, who ravaged Hampshire, Berkshire, and Buckinghamshire, were surprised in Alton wood (May 6); their leader, unhorsed in single combat by the prince, and

¹ Royal Letters, ii. p. 306.

chivalrously pardoned.¹ The earl of Derby's partisans were defeated with great loss at Chesterfield (May 15), and himself sent prisoner to Windsor.² The glory of Robin Hood and Little John, whom the most authentic history refers to this period,³ may at least serve to show that Nottinghamshire was among the counties where "the disinherited" avenged their fortunes upon society. the summer of 1266, Edward was able formally to invest Kenilworth (June). During five months the royalists lay in unavailing strength before the stronghold on which the engineer's skill had been exhausted. The obstinate courage of the garrison was the salvation of their party. Alarmed at the prospect of an interminable war, the king nominated a commission in a parliament held in the camp (August 24), to propose the terms of a durable compromise. The result of this was the Dictum de Kenilworth, confirmed by a Parliament at Northampton, two months later (October 26), by which the delinquents were divided into three classes, — extreme offenders, those who had borne arms against the king, and those who had simply accepted office under

¹ So say Wikes (p. 76) and Matthew of Westminster (p. 397), but the Chronicles of Rishanger (p. 49) represent the fight as an equal one, and Adam Gordon as yielding to the offer of terms. He deserved to be well treated, having driven the Welsh under William de Berkeley from before Dunster castle, the Sunday before Evesham battle (Idem, p. 41). The Annals of Dunstaple (p. 241) place Alton wood in Buckinghamshire (no doubt Halton, part of the old Byrne wood), near Chiltern and Kimble. The Chronicles of Rishanger place it between Alton and Farnham, "in partibus Wyntonise." Curiously enough Wikes

says that Adam Gordon was imprisoned and heavily chained, while Matthew of Westminster says that his companions were hanged. He was bailiff and justice itinerant of Alton Forest, in Hampshire, under Edward I. Foss, Judges of England, iii. p. 98.

² Annal. de Dunstapliâ, p. 241. The forest of Suffeld-frith, where his head-quarters were (Wikes, Gale, ii. p. 75) was probably that better known as the Peak forest.

³ Authentic, it is true, only by comparison, as the passage is an interpolation. Fordun's Scotichronicon, ed. Goodhall, ii. p. 104.

De Montfort. The first might redeem their estates by the payment of seven years' rental; the second were to be mulcted in five, and the first in two or one. The De Montforts and the earl of Derby did not reap the benefits of the compromise; Simon had escaped before the siege into France, where he vainly endeavoured to raise troops for an invasion; and Robert de Ferrars lost his title, and could never recover the greater portion of his lands from prince Edmund, to whom they had been granted.¹ This settlement gradually quieted the country, Kenilworth throwing open its gates, and the outlaws, except in Ely, dispersing to their homes. Yet it gave so much dissatisfaction to the royalists, who were compelled to disgorge their booty, and especially to the earl of Gloucester, that for a time a new war was imminent. The commons of London declared in favour of the earl, when he took possession of the city (April 17-24), and all who had not made their peace with the king flocked to his standard. The legate was shut up in the Tower, which sustained repeated assaults. Prince Edward hurried back from the north at the head, it was said, of thirty thousand men; and French troops under the earl of Boulogne, and Gascon ships came

¹ The De Montforts are not included in the *Dictum de Kenilworth*, on the ground that the king has put their matter into the hands of the king of France. In a letter of September 6, 1267, king Henry tells Louis IX. that he has offered them terms for his sake, which will not be repeated if they are now refused. *Royal Letters*, ii. p. 315. Concerning earl Ferrars, it is awarded that he shall give seven years' value of his land, which was increased by unpirage afterwards to eight years. He

seems, however, to have offered £50,000 ransom for them to prince Edmund, and being unable to pay it, his sureties gave the prince possession. This was afterwards the subject of a law suit, but no redress was obtained. From a suit for dower, which his widow afterwards brought, it seems, however, that Robert Ferrars retained some fragments of his old estate. He probably gave up the title of earl from inability to support its burdens. *Dugdale's Baronage*, pp. 263-265.

over to the king's aid. De Clare quailed at the sight of the forces arrayed against him, left his northern allies to their fate, and made terms for himself with the king, giving bail for his good behaviour (June, 1267). The citizens of London were included in this peace, and at last reconciled to the king, having paid dearly for their energetic partisanship. It was among the first fruits of the battle of Evesham that prince Edward received a grant of all the goods and merchandises of such as had taken part against the king, and although some composition was finally made in this instance, it must have been on severe terms, if we may judge by the fact that one of the prince's knights received £1760—from £25,000 to £30,000 of our money—on a lien of the goods warehoused in Flanders.¹ From the benefits of the Kenilworth decree the city was specially excluded, being placed at the disposal of king and council. The late mayor and his companions, who had been thrown into prison at Windsor, were forced to ransom themselves. This last severity was generally blamed by moderate men, as the sufferers, however guilty they might have been in previous years, had come as a deputation to the king's court, and ought to have enjoyed the benefits of his peace. Besides this, all who had been markedly anti-royalist were expelled the city; the city fortifications, the bridge and its tolls were kept in the king's hands; and although the city was allowed, after a few months, to elect a mayor and sheriff, the franchise was restricted to the richer members of the corporation, and soldiers attended the Guildhall to moderate excessive freedom of suffrage.² Thus handled and schooled, Lon-

¹ New Rymer, vol. i. part i. p. 468. Royal Letters, ii. p. 305.

² Liber de Antiquis Legibus, p. 86.

don was able, in 1270, to recover all its old privileges on the moderate terms of raising the rent to the crown from £300 to £400 a-year. Even then, however, it was provided that the arms used were to be kept in separate storehouses, not by the citizens themselves; that no man was to own a war-horse, and that no great lord might lodge in the city without leave from the crown. Perhaps the city which had done so much for liberty could hardly complain if it suffered when the common cause of the nation was overthrown. Yet in one respect it had deserved well of any government. It had maintained strict order in the neighbouring district for twenty-five leagues round during the campaign of Evesham; and some marauders who followed in the track of the younger De Montfort were hanged pitilessly by the Londoners (June 29, 1265) without regard to franchises, or to the fact that they called themselves by the right party name.¹

During the siege of Kenilworth a few of the disinherited contrived to take possession of the Isle of Ely, which its bishop had garrisoned in the king's interest. The fen country soon became the last stronghold of the desperate; and they captured Norwich and levied contributions as far south as St. Alban's and Dunstable. In February, 1267, the king summoned the whole strength of the kingdom to Bury St. Edmund's. But his more immediate object was to reduce the Church to vassalage. Supported by the presence of a legate, he demanded that the clergy should grant aids and do military service for their fees in the same proportion as the lay

¹ *Liber de Antiquis Legibus*, p. 74. On the other hand, the royalist compiler (p. 114) tells a curious story of a conspiracy to murder some

forty citizens of the royalist party, which was prevented by the news of the battle of Evesham.

tenants of the crown; that the taxes should be assessed by laymen on the full values of church property; that special grants of more than 50,000 marks should be granted, and that a general crusade should be preached, and service in it excused only by payment. The first of these articles were in themselves reasonable and right; and though the clergy opposed them as violations of old franchise, they would have found no support in the nation, if it had not been felt that the money wrung from Englishmen would only enrich foreign kinsmen of the king or papal dependants. The crusade which Henry professed to desire was not in itself a bad expedient for draining England of men demoralized by war; but to make it obligatory was in fact to force the nation to ransom itself. The clergy seem flatly to have refused compliance,¹ and the disinherited of Ely, making common cause with them, replied in a spirited manifesto to the legate's summons to surrender. They were as good Christians as himself; they acknowledged the pope as head of the Church, not as arbitrary ruler, and the legate as umpire, not as royal partisan; they were unjustly deprived of their lands, for which they were willing to fine; they were fighting for the rights of Church and State against government by aliens and unjust taxation. They ended by demanding restitution of their lands and hostages as guarantees of a five years' peace. It is evident that

¹ They were to give 30,000 marks to restore the king's state, and 9000 to discharge engagements contracted in Rome by the king's envoys. Besides this they were to give the legate tithes, amounting probably to at least 12,000 marks, as a tenth, in 1410, amounted to over £10,000.

Rishanger, pp. 61, 62. Proceedings of Privy Council, vol. i. p. 342. The clergy gave way afterwards so far as to grant tithes for three years and a twentieth; and Wikes says the proceeds (apparently of the tithes alone) amounted to more than the whole royal revenue. Gale, ii. p. 86.

they relied on De Clare's revolt, which, in fact, saved them for a time. But when the earl of Gloucester had made his peace prince Edward lost no time in reducing the insurgents of Cambridgeshire. Energetic and full of resource, he carried his troops over the fens on hurdles and pontoons, and obtained possession of an important post from the mother of Nicholas de Segrave, one of the rebel chiefs.¹ The garrison had no strength in the country which they had ravaged wantonly, burning corn when they could not take it away; and they were distracted by frequent quarrels among themselves.² They were allowed to go out with the honours of war, and their personal property, and to take the benefit of the terms agreed to in the Dictum de Kenilworth. But they were at once impoverished and unfitted for the peace: they tried to maintain themselves by robbery; and several who had for awhile been soldiers in a righteous cause, closed a dishonoured career on the gallows.³

In November, 1267, a parliament met at Marlborough. It is not certain that the towns were represented in it, but an expression in the preamble to the statutes that the more discreet men of the higher as well as of the lower ranks were summoned, shows that spokesmen from the gentry at least were present. The first care of the meeting was to reform the flagrant abuse of

¹ *Chronica Rishanger*, p. 57. *Anales de Dunstapliâ*, p. 246.

² The curious account quoted by Mr. Halliwell from the cartulary of Barnwell (*Rishanger*, pp. 146-150), mentions in particular that Hugh and Robert Pecche, two of those who made the surrender, had threatened some time before to fight their

comrades to the death sooner than let Barnwell priory, where their ancestors were buried, be burned down.

³ See a list of nine gentlemen, one of them a Nevile, who were either hanged for robbery, died in prison, or escaped by corrupting the judges, in the *Annals of Dunstaple*, p. 251.

private war, which had become rife in the land,¹ the great men declining the jurisdiction of the king's court, and taking revenges or levying fines on their neighbours at their pleasure. It was enacted that all such offenders should make compensation to the sufferers and fine in proportion to their offences to the king. A series of smaller provisions enforced the authority of the local king's courts. The article in the statutes of Oxford which exempted the baronage and the higher clergy from appearance at the sheriff's tourn was confirmed, with the single abatement, "except their appearance be specially required there for some cause." Charters of exemption from service on assizes, juries, and inquests were annulled in cases where the presence of the privileged persons was required for the administration of justice, as, for instance, where they were wanted to give evidence. The Great Charter and the Forest Charter were confirmed. Altogether, the provisions of this parliament seem to show that order and the royal authority were at last definitely re-established.

The remaining events of the reign are unimportant, prosperity returning with peace and good harvests. A quarrel between prince Edward and the earl of Gloucester seems to have been healed by the arbitration of the king of the Romans, and in 1270 the prince started to join the new crusade, under St. Louis,

¹ In a lawsuit between earl Warren and Alan de la Zouche, the earl, expecting to lose, attacked his opponent in court, leaving him half dead. *Chronica Rishanger*, p. 58. In this case the offender was fined 7000 marks, but Alan de la Zouche died of his wounds. Wikes, Gale, ii.

p. 92. The same earl and Henry de Lacy, having a quarrel about right of pasturage, raised armies for private war, but were stopped in time by the royal justiciaries, who decided in favour of De Lacy. Matt. West., p. 399.

stipulating, however, that De Clare should be of the expedition. Altogether twenty-two bannerets and nearly a hundred knights joined the expedition, stimulated, it would seem, by the pay assigned them;¹ and the land had rest from civil war for a time, though the effect of the late troubles had been to increase the power of the great nobility. Arrived before Tunis, Edward found that the death of the king of France left him no course open but to conclude a treaty with the Dey. But having put on the white cross, partly in performance of his father's old vow, he determined to carry out his engagements scrupulously, and accordingly crossed from Sicily to Palestine, where there still remained a wreck of the old Christian dominion to be defended by the sword. The prospect of a long absence induced him to entrust the care of Gascony² to his cousin Henry, who had lately married the daughter of the count of Bearn. Henry presently set out, turning by the way, in company of the kings of France and Sicily, to attend the conclave at Viterbo, which had been sitting two years to elect a pope. It was a

¹ See the list of prince Edward's chief followers with the sums allotted in the proportion generally of 100 marks each. *Archæolog. Journal*, viii. pp. 45, 47. To defray his expenses Edward received apparently £31,120 from the taxes raised in England, and 70,000 Tournois livres (equal to £17,500 English; "quatuor Turon' pro uno sterlingo computandis," *New Rymer*, vol. i. part i. p. 912); from Louis IX.; the repayments to be made out of the revenue of Gascony at the rate of 10,000 livres a year. *Lib. de Ant. Leg.*, pp. 111, 114; *Chronica Ri-*

shanger, p. 60. By a curious arrangement De Clare was to receive 8000 marks if he assigned the spiritual benefits of the crusade to king Henry, and 2000 if he kept them to himself. *Lib. de Ant. Leg.*, p. 123. Wikes, however, makes the difference depend on whether he joined prince Edward or fought on his own account.

² Wikes, *Gale*, ii. p. 94. There is an interval in Mr. Shirley's list of the seneschals of Gascony between Mar. 5, 1267, when John de Grelley is in office, and June 5, 1272, when Luke de Tony is appointed. *Royal Letters*, ii. p. 400.

dangerous neighbourhood, for Simon¹ and Guy de Montfort, the latter of whom had won distinction and lands in the papal service, were then staying in the town. Accordingly, on the fourth day after his arrival (March 13, 1271), while Henry was praying in a chapel near his lodgings, his two cousins, who had tracked every movement since he came, rushed in upon him with drawn swords, calling him traitor and their father's murderer. The wretched man started up from his knees and clung to the altar, on which lay the host only just consecrated, but the brothers stabbed him at the very shrine of God. By a last refinement of insult they dragged him, wailing for mercy, about the church, as their father's senseless body had been dragged on Evesham plain. Never was crime more awful in its circumstances. Yet only a slow vengeance overtook the murderers. The pursuit was followed up slackly till prince Edward returned from Palestine, and by that time Simon was already dead. Guy was thrown into prison (1273) for ten years, when the pope, needing his arm in the field, released him. In 1288, however, he was taken prisoner by the Sicilians and consigned to a dungeon, from which he never emerged. The bitterness of exile had indeed done its worst when De Montfort's sons stooped to be assassins; and Simon, who had saved the father at Kenilworth when his loss was yet fresh, slew the son after six years of peace.

There are no signs that king Henry became a better or a wiser man for the experience of the civil war; but advancing years seem to have aged him before his time,

¹ Bartholomew Cotton says (p. 146) that Simon came to England in this year to see the tombs of his father and brother. If so it must

have been in the early part of the year, and his visit may have some connection with the tragedy of *Viterbo*.

and those around him had learnt a lesson about the barons' power of endurance. In 1268 he was again in want of money, partly perhaps to defray the expenses of completing Westminster Abbey, and the solemn translation of the Confessor's bones to their new resting-place. The prelates and lords were obsequious and granted large aids, which were exacted with unusual rigour. In 1270 a quarrel broke out with Flanders, the countess confiscating all English property in her dominions, to the value, it was thought, of more than 40,000 marks,¹ as security for a yearly pension which Henry, she said, had contracted to pay her for military services. The English council ordered reprisals, which, however, were insignificant, as the Flemings had been forewarned of the countess's intentions, and parliament soon afterwards (Oct. 13) forbade any wool to be exported into Flanders. An attempt was even made to establish native manufactures,² but smuggling seems to have been found an easier and more profitable expedient. The nation, however, was thoroughly roused, and all attempts at negotiation failed for the time. The Flemings in London were arrested and expelled the country, under oath not to return till terms of peace

¹ Liber de Ant. Leg., p. 111. The estimate was probably exaggerated, as inquiry showed (p. 142) that the goods of the English merchants, excluding prince Edward's vassals, and natives of Wales, Ireland, Scotland, and Gascony, only amounted to £7000. The goods of the Flemings turned out to be worth £8000.

² A proclamation invited Flemish workers in wool to settle in the country, and stated that English merchants were prepared to buy up

all the stock of wool. Lib. de Ant. Leg., p. 136. The only apparent instance of commercial distress that I can find is that where the monastery of Dunstaple, in 1272, pledges its wool, apparently on onerous terms, for a loan. Annales de Dunstaple, p. 253. Yet as the price of good wool was about 10 marks the sack of 26 stone (Hardy's Preface to Rot. Litt. Claus., p. xlv.), a loan of 8 marks the sack does not indicate a general fall.

had been arranged. The countess, however, was unsubdued, and sent so insolent a message to the king, threatening reprisals, that her envoys were ordered to leave the realm within three days.

The last year of the king's life had several troubles. In the spring came the death of his brother Richard, to whom he had been accustomed to look for counsel and support, though the king of the Romans was better fitted for the meridian of Germany than for a constitutional country like England. In the autumn a serious riot broke out at Norwich. The prior there was a haughty violent man, constantly at feud with the citizens, from the attempt to extend his feudal dominion, or from the licence in which he indulged the abbey servitors. At last these men ventured to use blows to some visitors to the annual fair who had been a little behindhand in removing their booths; and the citizens could obtain no redress for this outrage. They prepared to exact it by force, while the prior brought over a number of the Yarmouth rabble, men depraved by the late troubles in the kingdom, and fortified the belfry. The men of Norwich now considered that they were justified in maintaining the king's peace by violence; and forgetting, as a chronicle puts it, that it is wrong to burn Christians in a consecrated place, they set fire to the tower, and the whole monastery and cathedral church, with their relics and books, were consumed. Nothing could be more calculated to rouse Henry to indignation. He went down in person to Norwich,¹ put the bishop of the diocese on the com-

¹ So say most authorities; but Trivet (p. 279), whose father was the judge employed, appears to imply that Henry did not go in person.

According to Bartholomew Cotton, who was a monk of Norwich, (p.148), he went there after a parliament at Bury St. Edmund's.

mission for trying the offenders, and had a jury of forty-eight knights empanelled from the country round, lest the townsmen should be too merciful. In this way more than thirty offenders, chiefly young men, but with one woman in their number, were convicted, and dragged at horses' tails through the streets to be hanged or burned. But the progress of the inquiry showed that the prior and his monks had been at least equally guilty, and had set the town on fire in three places.¹ Homicide, robbery, and other crimes were also proved against the prior, to such an extent that the king gave orders to take him into custody. To the scandal of all right-minded men, the criminal was allowed to escape with a mere ecclesiastical purgation. From this unsatisfactory solution to the Norwich riot Henry went back to London to die. His last hours were disturbed by the old quarrel of the city between the privileged and the unprivileged class—the council refusing to give any final decision for fear of causing an instant rebellion, and the people coming every day to clamour for an answer under the windows of the dying man at Westminster. It was a strange commentary on the feeble disorder of the reign. Henry himself, lay beating his breast, confessing his sins aloud, and promising that he would amend his life if he were spared.² Yet the king had one comfort in death. His doubtful subject, Gilbert de Clare, promised on oath that he would do his best to preserve peace and keep the kingdom for the prince.³ Henry died of weakness

¹ The jury even found that the church had been burned by its defenders, who had left the fire of their smiths burning, when they fled in a panic. But it was admitted that the

townsmen had fired the gates. Lib. de Ant. Legibus, p. 147; Bart. Cotton, p. 149.

² Chronica Rishanger, p. 50.

³ Lib. de Ant. Leg., p. 155.

and of old age rather than of any positive malady, November the 6th, 1272.

Henry's character scarcely needs the long commentary of his reign to be understood. The small thick stature was all he had in common with his grandfather; the drooping eyelid with his son. Never man was more strangely placed between the first Plantagenets and Edward I. than the king, who, as a private gentleman, would have lived without infamy and without praise, and whose mild well-meaning, and religiousness, almost balanced his perjuries, his profusion, and his injustices, the results of weakness—not of positive vice, in the eyes of his contemporaries. The same feebleness that allowed him to misgovern without making personal enemies, kept him through life without personal friends, in spite of the favours that should have purchased them; his fitful passionate temper alienated his courtiers, his incapacity and braggadocio disgusted them. Even his three masses a day, his wax tapers and alms did not conciliate the Church, which suffered far more from his necessities than it gained from his charities. The most genuine and respectable trait in his character was his love for art. To him we owe Westminster Abbey, unmatched at that time among transalpine cathedrals, and for which an artist may forgive him the oppressions in which he founded it. Several entries in the Rolls attest his care for painting,¹ and seem to show that he thought to better purpose on this subject than on politics. In literature, except romances or poems, he seems to have had little interest. Probably his own feelings, in accordance with the tendencies of the time, were against the philosophy

¹ Hardy's Preface to Rot. Litt. Claus., pp. xlv. xlvii.

which was needed to justify his faith; with St. Francis against the schoolmen.

Strange as it may appear, in spite of Henry's prodigalities, and of the great waste of civil war, the wealth of the country seems to have increased steadily during his reign. A writer, towards the end of it, estimates that an export duty of five marks on the sack of wool would alone amount in six months to 110,000 marks,¹ and without inquiring whether this policy was in fact possible, or whether the estimate of 22,000 sacks for the half-year was not somewhat beyond actualities, we may well believe that the trade in wool was rising rapidly towards the high mark it attained in 1297, when it was estimated at half the rent of the kingdom.² The trade with the Hanse towns received an immense impulse, partly through the connection of the king of the Romans with Germany. The Steelyard in Thames-street was the German Guildhall, while Lombard-street was the head-quarters of Italian finance, which had come over in the train of the pope's collectors. The marvellous works of Roger Bacon show that optics and mechanics were intelligently studied with a view to invention, and the great prophet of science speaks with a serene confidence of possible results, which religion taught him to undervalue, but which have been the

¹ See the curious letter quoted by Mr. Blaauw from the Archives du Roy, (*Barons' War*, Appendix, pp. 1, 2). In 1341, Edward III. received a grant of 30,000 sacks of wool, and in a petition of Henry IV.'s reign it is stated that the duty on wool raised in the 14th of Richard II. at the rate of £2 10s. a sack for denizens, and £2 13s. 4d. for aliens,

had amounted to £160,000, implying an export of more than 50,000 sacks. Rot. Parl., ii. p. 131, iii. pp. 279, 625. The calculation of Henry III.'s adviser is therefore not incredible, especially if we assume that the six months meant are the six months after shearing.

² Trivet, pp. 361, 362.

triumph of later centuries; of carriages that can go without horses, boats that can sail against the wind, and glasses that can reflect distant objects. To him or to this time belongs the discovery of gunpowder. Literature had a little declined before the more absorbing interest of political struggles, but the reign produced one of our greatest lawyers, Bracton; and Bacon, and Duns Scotus were the glory of the schools. Fifteen thousand students were entered on the Oxford books, and Cambridge was growing into importance. The separation from Normandy had consolidated Norman and Saxon into one English people. Not to speak English was the mark of a foreigner, and no longer, as in old times, of a gentleman. The very government was compelled to translate its more important manifestoes into the vernacular. The law of Englishry was dying out, and it had been found possible to abolish the ordeal, which was not now, as it had once been, the refuge of the weak from the strong. Wealth, intelligence, unity, and the growth of law were slowly moulding the nation for higher destinies.

CHAPTER IX.

FIRST YEARS OF GOVERNMENT.

THE ENGLISH REGENCY. EDWARD'S ACTIONS IN PALESTINE. RETURN TO EUROPE. HOMAGE TO THE FRENCH KING. WAR IN GASCONY AND GUIENNE. SUBMISSION OF THE EARL OF FLANDERS. RETURN TO ENGLAND AND CORONATION. EDWARD'S CHARACTER. INQUIRY INTO TITLES AND PRIVILEGES. JUDICIAL REFORMS. FIRST STATUTE OF WESTMINSTER. NEW METHOD OF TAXATION. MEASURES AGAINST THE JEWS. STATUTE OF MORTMAIN. SECOND STATUTE OF WESTMINSTER, AND ABBRIDGMENT OF CLERICAL PRIVILEGES.

THE proceedings after the death of Henry III. are striking proof of the respect for law that had grown up in England since the times of Stephen. The members of the royal council at once assumed the cares of government.¹ The royal seal was finally delivered up to them (Nov. 17). At the burial in Westminster Abbey (Nov. 20), before the tomb had yet closed upon the corpse,² the earl of Gloucester stepped forward and

¹ I cannot understand on what ground Dr. Pauli speaks of the archbishop of York, the earls of Cornwall and Gloucester, as having been regents; "Reichsverweser." (Gesch. v. England, iv. s. 2.) It is true they witness the writs to the sheriffs, but the notice of the delivery of the great seal says it was handed over to the archbishop of York, Robert de Aguilon and others of the council; the letter to the king is signed by

six prelates, one prior, four earls, and five barons; and the earl of Gloucester does not appear witnessing or signing any other important document in Rymer. It is a point of some constitutional importance, that no regency having been appointed beforehand, the council at once assumed the functions of vice-royalty.

² As usual there are three slightly different accounts, "nec dum clauso jam tumulo," say the nobles. New

took the oath of allegiance on the sacred elements at the great altar; prelates, barons, and meaner men followed the example of the greatest and most dangerous subject. Briefs were presently issued (Nov. 23) to the sheriffs of counties, stating, in the new sovereign's name, that the kingdom had now devolved on him by hereditary right, and the will of the peers, and the homage before done to him; the king's peace was therefore to be proclaimed and enforced under heavy penalties. A letter was sent to the king, urging him to return. The papal nuncios, who had come over with authority to tax the clergy for the crusade, were told that they must receive fresh credentials. The clergy, however, gained little by the respite. Their Italian taxmasters quartered themselves in the Temple, defraying their expenses by a tax on conventual revenues, and finally received authority to raise a tenth for two years for the king and the earl of Cornwall.¹ Meanwhile Parliaments were held with all regularity. At one in Westminster (Jan. 14, 1273), the oath of allegiance was taken before the archbishop of York, and two clerks, acting as the king's proxies. Walter de Merton was confirmed as Chancellor.² It was agreed that no justices in eyre should be appointed till Edward returned to England,³ the

Rymer, vol. i. part ii. p. 497. "Antequam corpus R. H. traditum esset sepulture." Ann. Ecc. Wig. Anglia Sacra, i. p. 499. "Rege igitur sepulto." Matt. West., p. 401.

¹ Lib. de Ant. Leg., pp. 157, 158. Cont. Flor. Wig., ii. p. 211. Annales de Wintoniâ, p. 113. But the Annals of Dunstaple, p. 255, and Wikes (Gale, ii. p. 99) say that the clergy granted the king a tenth for three years. Possibly it was two years for himself, and one for his

brother.

² He had been chancellor under king Henry, and attested a record on the Close Roll as chancellor nine days after his decease. On the other hand, it is doubtful if the chief justice of the King's Bench, Robert de Brus, was continued in his office. Foss's Judges of England, iii. pp. 5, 17.

³ The justices, Roger de Mortimer and Nicholas de Stapelton, who inquired into a riot at Winchester in

reason probably being that part of their duties consisted in levying the fines due at an accession, and the council would naturally desire to avoid the odium of heavy exactions or the charge of prejudicing the king's rights in his absence. But if they were discreetly timid of action, where action could be deferred, they showed equal energy and efficiency in maintaining the order and honour of the realm. Repeated writs were issued to obtain the oath of allegiance from the doubtful Llewellyn of Wales. Tournaments were put down under penalty to the offenders of forfeiting all their lands. (April, June, 1273.) The exportation of wool to Flanders, which had been resumed in spite of royal prohibitions, was met with a summary announcement that offenders would risk life and limb, as well as their property (April 10, 1274).¹ There were threats of risings in the north, where men said that Edward would never return, and vague rumours of possible attempts on London. The bishop of Chichester had the singular indiscretion to try bringing back Aymeri de Montfort into the realm (1274), and was met with seizure of his barony and a prohibition to land from the king, who heard of his intentions.² But the council steered safely through all difficulties of an uncertain rule and enforced respect for the royal authority in the northern marches, as well as in London and Winchester.³

the summer of 1274, must probably be regarded as special commissioners, not as ordinary justices coming on circuit. *Annales de Wintoniâ*, p. 17.

¹ This seems an exertion of royal power, beyond what would in after times have been permitted without the sanction of Parliament. *First Report on the Dignity of a Peer*, p. 172.

² *Liber de Ant. Legibus*, pp. 158, 159.

³ Compare the letter of Robert, bishop of Carlisle, to Walter de Merton, clearing himself from the charge of preventing the men of his diocese from performing their fealty to the king (*Sixth Report on Public Records*, p. 94), with the story in *Matthew of Westminster*, (p. 413.)

Meanwhile Edward had been winning a reputation for courage and piety, which afterwards did him good service as king. When he landed in November (1270)¹ at Tunis, he found Louis IX. dead of dysentery, and peace already concluded between the king of Sicily and the Bey. The French resolved to defer further operations, and proposed a second expedition three years hence. "By God's blood," said the English prince, "though all my brothers-in-arms and countrymen forsake me, I will enter Acre with my horse-boy Sowin, and keep my oath to the death." Accordingly, after wintering in Sicily, he set sail for Acre, and reached it (May, 1271), just in time to prevent its surrender. But the little English force could effect nothing further by itself, though it made forays into the country, and the hopes of help from Europe, or of alliance with the Tartar Khan of Persia, with whom embassies were exchanged, soon proved to be valueless. Yet Edward had nearly lost his life at Acre. A fanatic, suborned, it was said, by an emir who had gained confidence by affecting an inclination to Christianity, obtained an audience of the prince (June 17, 1272), and stabbed him in three places before Edward had time to turn and slay the assassin with his own knife.² For some time the wounds threatened to be dangerous; it was thought the dagger had been poisoned, and the prince executed a formal will.³ But

of 300 men-at-arms, besides light-armed men, who assembled for the beginnings of civil war, and were dispersed by the earl of Cornwall and Roger de Mortimer.

¹ Nov. 10. *Liber de Ant. Legibus*, p. 126. November, 16-18. Wikes, *Gale*, ii. p. 93.

² The *Opus Chronicorum* (p. 30)

says that Edward brained him with a trestle, but Hemingburgh (i. p. 335) says that the stool was used on the dead body by an attendant, who rushed into the room.

³ The beautiful legend that Edward's life was saved by the devotion of his wife Eleanor, who sucked the poisoned wounds, dates in English

even on what seemed a death-bed he steadily refused to let any reprisals be taken which might be revenged on the Christian pilgrims to Jerusalem. A good constitution and skilful surgery at last triumphed over the injuries inflicted. Edward's first care on his recovery was to examine the muster-roll of his army. It appeared that barely a hundred in all were left of the English force, from all quarters and of all kinds. It was idle to remain for the mere purpose of relieving guard on the citadel, and, after more than a year of honourable enterprise, Edward concluded a "ten years' truce" (Aug. 15, 1272) with the sultan, and returned to Europe by way of Sicily. At the court of Charles of Anjou he first received tidings of the deaths of his uncle, his father, and his eldest son.¹

Before returning to England, Edward wished to secure his position abroad. In a visit to Gregory X. (Feb. 14, 1273), who, as archdeacon of Liege, had shared part of the campaign in Palestine, he at last obtained a tardy justice against Guy de Montfort, who was brought to trial and imprisoned as a felon. It is probable

history from Camden's *Britannia* (fol. ed. p. 432), where it is erroneously given on the authority of Roderic of Toledo: a writer who would be entitled to credit, as he wrote in 1281, but who makes no allusion to the story. It is really derived from Roderic Santius (*Rer. Hisp. Script.*, i. p. 297), who wrote in the latter end of the fifteenth century, professing, it is true, to quote from older sources, "*ut vera perhibent annalia.*" The story will not bear examination. No English writer of the time ever alludes to any such report. Hemingburgh, in a very detailed account, (i. p. 336), says that the princess was

taken out of the room by the surgeon's orders before he commenced operating. Finally, the same story is told of Sibylla of Conversana and Robert of Normandy. Schola Salmnitana, ed. Sylvi, *Præf.*, c. iii.

¹ It is noteworthy that a story, which three chroniclers think worthy of repetition, is told in two different ways. The *Opus Chronicorum* (p. 33) says, that Edward was nearly distracted at the news of his son's death; Trivet (p. 284) and the *Chronica Rishanger* (p. 78) represent him as mourning most for his father, on the ground that he might have other sons.

that this sentence was a triumph of English over French interests. Guy's crime would never have been dared, or at least would not have remained so long unavenged, if he had not counted on and received Charles of Anjou's protection. From Orvieto the English king went on in a triumphal procession through Italy, greeted with processions and trumpets, and shouts of "Vivat Imperator." A soldier to the core, we find him once sleeping in the tent of a captain of Bologna, who was leading troops against Forlì,¹ and a little later (June 25, 1273) reducing a disorderly noble to the allegiance of his kinsman, Philip of Savoy. Once the king's chivalry had almost cost him his life. In a great tournament at Chalons both parties kindled into bitter earnest, and the English, a thousand in number, only prevailed by sheer hard fighting over their more numerous enemies. Edward himself grappled on horseback with the count of Chalons, and flung him heavily to the ground. In his first anger, suspecting treachery, and hearing that the townsmen were cutting off his soldiers, the king threatened to fire the city, but the authorities succeeded in restoring order. There is, perhaps, no reason to suspect that the "little battle" of Chalons was premeditated by either side; large bodies of men, animated by national jealousy, were likely, under any circumstances, to turn a mock fight into a real *mêlée*.²

It was characteristic of Edward, as careful in per-

¹ New Rymer, vol. i. part ii. p. 523.

² I have followed Hemingburgh in placing the tournament of Chalons before Edward's visit to Paris; but Dr. Lingard refers it to the next year, on the strength of a bull from pope Gregory, forbidding the king of

England to take part in a tournament, and cautioning him against treachery from personal enemies. On the other hand, tournaments were not infrequent, and, as Dr. Pauli observes, we know that Edward was in Gascony, and do not know of his visiting Burgundy, in 1274.

forming his obligations as jealous in exacting his rights, that one of his first cares was to visit Paris (July 26, 1273), and perform homage for the lands that he held of the crown of France. John and Henry had shrunk from the ceremonious recognition of their vassalage. Nobles and knights had flocked over already to do duty at their king's side in the little battle of Chalons, and Edward was assisted by a council in treating with the French king. They parted at Melun on friendly terms (August 10),¹ though their relations were no longer as cordial as they had been during the lifetime of Louis, and it was noted in France, with some displeasure, that Edward had worded his homage "for all the lands that I ought to hold" of the French crown, as if reserving by implication the case of Normandy.² Ships had been prepared to take the king into England; but he turned southward, where his queen awaited him in Bordeaux, and where a dangerous vassal required his presence. Gaston de Béarn, no longer attached by any personal ties to the English interest, since his son-in-law prince Henry perished at Viterbo, was waging a civil war in the province, without the smallest regard to royal seneschals and commissioners. Edward at first treated the powerful rebel with lenity, contenting himself with exacting securities that Gaston should remain at his court, until the complaints against him were examined into and sentence given (Oct. 2, 1273). But the viscount dared not face a judicial inquiry. By a stratagem, like that which Edward had himself employed

¹ Wikes says that Edward left Paris on Monday, Aug. 7. Gale, ii. p. 99. But the quittance given him for the payment of an old debt of £1000, borrowed on the security of

the crown jewels from the king of France, bears the date of August 10, at Melun. New Rymer, vol. i. part ii. p. 505.

² Matt. West., p. 402.

against De Montfort, he escaped on a swift horse from his honorary guard, and put himself at the head of his troops. The insurrection spread, the countess of Limoges refusing homage, and, after a winter of hard campaigning in the mountains, Gaston eluded a final issue for the time by appealing to the king of France as suzerain. From proceedings that afterwards took place at Limoges (May 11, 1274), when Gaston's envoys complained that his country was still kept as it were in a state of siege, merchants denied passage, and husbandmen shut out from their farms and commonage, it is evident that Edward succeeded in re-establishing his authority. The readiness with which he granted redress is proof that he accepted, in its full extent, his position of feudal inferior to the crown of France. In fact, though national predilections must have been with the Gascon against the Englishman, justice could only be delayed, not denied; sentence was at last given for the king of England, and Gaston appeared at court with a halter round his neck to make submission (Feb. 2, 1276).¹ He was committed for some years to prison, but was finally released, giving security for his good conduct, and converted for the rest of his life into a loyal and peaceable subject.

Edward did not attend the Council of Lyons (May 7-July 17, 1274). His coronation had been delayed, so that it might not interfere with the attendance of English churchmen; but the king, as statesman and general, probably saw by this time that the epoch of crusades had gone by, and that Gregory's appeal to the faith of Europe would be in vain. In his absence it

¹ The Ann. de Winton. (p. 120) and Wikes say 1276 (Gale, ii. p. 105), but 1275 is the date generally

given, and which Dr. Pauli seems to adopt.

fares ill with the English Church. A tax of six years' tithes was proposed, and the new primate, Robert de Kilwardby, accepted it with the remark that he was the pope's creature, and that his church and all its goods were at the pope's disposal. The spirit was not that of the English clergy in general. The dean of Lincoln handed in a paper, complaining that the Church in England was ruined almost beyond hope of redemption. The timid remonstrant was deprived on the spot of all his benefices,¹ and the example proved effectual against further opposition. It might be right that the English Church, which often evaded the service due to the State, should contribute to matters of European importance, but that taxes should be paid solely at the pope's requisition was a precedent of doubtful safety for nations. Meanwhile the king of England adjusted the difficult Flemish quarrel at Montreuil (July 24). The vigorous measures of the English government had triumphed, and the count came to offer an unconditional submission.² In presence of the English council, he declared his regret for his mother's conduct; he promised to give up his prisoners and make reparation; and he agreed that he and certain of his knights would offer themselves prisoners, if the compensation promised were not made by the next Easter. On these terms he was admitted to a renewal of the old commercial relations.

¹ He was, however, restored after three days, the grant apparently having been voted meantime. (Hemingburgh, ii. p. 4).

² Lingard and Dr. Pauli say, that this conference was held in the presence of deputies from London. Their authority seems to be a letter given in the *Liber de Ant. Leg.* (p. 167), ordering the citizens to send

four deputies to Paris to confer with the king. The meeting, however, was appointed for June 11, and the deputies seem to have returned (p. 171) July 16, eight days before the conference. Probably they were consulted as to the terms to be exacted, but their presence would have been a needless humiliation for a powerful prince.

Edward's coronation (August 19) was celebrated with much magnificence, and the occasion of great rejoicings. Never had man more honourably belied the evil promise of his youth, when he issued illegal writs from his chancery,¹ or traversed England with a train of *routiers* and grooms, worse brigands, it was said, than had come in the train of the French invasion under Louis, who lived at free quarters upon the country, and sacked the very houses where they received hospitality.² Edward had learned by experience what it was to be the object of a people's hatred, and with the elasticity of a strong mind set himself to win the love that is easily given to princes. From the day he became De Montfort's captive no story of broken faith clings to his memory; and, after the crowning triumph at Evesham, he was as ready to mediate for the conquered as to reduce the disorderly. Imperious in exacting the rights of his crown to the uttermost, he was punctilious in discharging his intricate obligations as king or vassal. The scandal of foreign favourites was removed from the court. In his private relations as son, husband, or father, the king was beyond reproach. The last crusader of European kings, he was rarely superstitious in matters where common sense could discriminate;³ indignant at impostures and hypocrisy; impatient of all pretended clerical immunities. When a mendicant gained his mother's ears by a tale that

¹ In 1257, king Henry was obliged to stop all proceedings upon an illegal writ, which the prince had issued out of his chancery in Ireland. *Frynne's Records*, iv. p. 255.

² Paris, *Hist. Major*, 937, 938. Paris adds a horrible story that, on one occasion, he ordered a young

man, who seems to have given some trivial offence, to be deprived of an eye and ear.

³ Once, however, he declined to enter Oxford, in the belief that St. Frideswide would be offended. *Wikes* (Gale, ii. p. 102).

the late king had restored his sight, Edward said contemptuously, that a just man like his father Henry would have been more likely to blind a notorious cheat. Brave almost to insanity, the king was also a consummate general, able, as he showed at Evesham, to discipline raw levies, and, as he proved at Ely and in Wales, to carry out engineering works with singular audacity and resource. Hot-tempered and overbearing he no doubt was to the last. When an attendant, separated by a broad river, ventured to disobey orders, Edward at once swam his horse across the flood, and pursued the culprit till he implored mercy. His anger was so dreaded, that a clergyman, deputed by convocation to remonstrate against an obnoxious tax, dropped dead in the royal presence. Large-minded toward mere personal enemies, but never pardoning baseness or broken faith, the king relaxed his anger against all the De Montforts except the assassin Guy, whom his vengeance pursued to the end of that miserable life. He was less tolerant of opposition than of opponents, perhaps from a consciousness that his own integrity of purpose and largeness of political view were beyond the measure of his surroundings. One of his earliest acts was to reduce Wales, where his first political check had been received; and his reign is illustrated by stringent statutes against the clergy, who had been the backbone of rebellion during the barons' war. Tall, broad-chested, and sinewy, with the vaulted forehead of the Norman, and yellow hair of the Saxon, Edward looked the ideal sovereign of his race, and a slight infirmity of speech detracted nothing from his ready power of persuasion. He came back with new honours, from a war with which no memories of civil bloodshed were associated, to a people who only desired a strong, just government. It is scarcely wonderful if king and nobles were ready to promise everything that the crown

could grant or demand. Only two incidents might be cited of evil augury for the future. Llewellyn of Wales was absent from the coronation. Alexander III., Edward's brother-in-law, attended, but in doing homage for the lands he held of the crown, expressly reserved his rights to the kingdom of Scotland.¹ The reservation was excepted to at the time, but the homage was received.

One of Edward's first cares was to ascertain the full rights and possessions of the crown. Commissioners were appointed in every county (Oct. 11, 1274), whose duty it was to ascertain what were the royal manors, what hundreds and tithings were still in the hands of the crown, what fines the sheriffs and other officials had received, and by what warrant estates that were formerly crown lands, or judicial rights that were once exercised by the crown, had passed into the hands of private persons and corporations. There was nothing new in the idea of such an inquiry. It was matter of notoriety that the crown, often unjust itself, was pillaged in every direction, and William Rufus and Richard² had been prevented, by deaths that were at least opportune, from making fresh surveys more exact and detailed than the Domesday census, if not as general. The commissioners first appointed were often, perhaps always, men connected with the counties in which their inquests were to be held.³ But the inquiry excited

¹ Trivet (p. 292) and Rishanger's *Chronica* (p. 84) say merely that Alexander performed homage, and apparently copy from one another, or from a common account. It is certain the homage thus rendered was not considered sufficient, as the king of Scotland performed it again more satisfactorily; and the statement in the letter of Boniface VIII. (1299), that Alexander publicly refused homage for his kingdom, and

that the homage rendered separately for Penrith and Tynedale was received, seems, from the context, to refer to the epoch of the coronation. New Rymer, vol. i. part ii. pp. 554, 563, 907.

² Vol. i. p. 418. Hoveden, ed. Frankfort. p. 783.

³ Thus William de Brabœuf, a little later sheriff of Hampshire, and owning property there (Foss's *Judges of England*, iii. p. 60), and Guy de

fierce opposition. When John de Warenne, earl of Surrey, was summoned to produce title-deeds, he bared a rusty sword, and told the commissioners, "Here, sirs, is my warrant. My ancestors came over with William the Bastard, and conquered their lands by the sword, and by the sword I will hold them against all who seek them."¹ There was a tumult of applause from men like-minded with the earl, as he strode unchallenged away; and the king, it was said, gave instructions to stay proceedings. To this cause, accordingly, we may probably refer the preamble of the Statute of Gloucester, which grants that the franchises claimed by the prelates, earls, and others of the kingdom may be enjoyed without detriment to the crown rights till the king in person or the justices in eyre be able to give judgment. But Edward never faltered in his purpose, and the inquiry went on, at intervals, through a period of more than twenty years.² It was probably no accident that Surrey was one of the first

Taunton, probably of a family that held property in Devonshire (*Testa de Nevill*, p. 180), were commissioners for Hampshire, Wiltshire, Berkshire, and Devonshire. New Rymer, vol. i. part ii. p. 517. At the same time it is noticeable, that even the earliest inquests for Northamptonshire, Nottinghamshire, and Derby, were actually held before justices in eyre.

¹ Hemingburgh, ii. p. 6. This dramatic scene probably occurred in 1278, as no inquests are recorded before that year, and at the Parliament of Gloucester a petition was presented mentioning earl Warenne as aggrieved by the commissioners. The earl seems to have been charged with encroaching on the king's chase,

and his essoins disallowed. *Rot. Parl.*, i. p. 3.

² Eleven counties were visited between 1278 and 1282. The common statement that the inquests were made in 1278, (*Pauli, Gesch. v. England*, iv. s. 15), or 1281, (*Ann. Waverl.*, Gale, ii. p. 235), probably refers to the amount done during that period. In 1283 the visitations recommenced, and twelve counties were gone through during the next four years. Eight were taken between 1291 and 1294, and Cambridgeshire seems to have been the object of a special visitation in 1298, 1299. The eight remaining counties of our present division do not appear in the published returns.

counties taken after the Statute of Gloucester; and this time John de Warene consented to appear by attorney and plead.¹ The method of procedure before the justices was simple. They went down on circuit into the district and summoned the great landowners to produce their titles for all doubtful estates and privileges. A crown prosecutor stated the king's case, and if, in the absence of documents, prescription or any other plea was advanced by the defendant, a jury from the district was empanelled to give a verdict. The records of proceedings seem to show that there was no undue influence, and, in fact, the feeling in every district must naturally have been for the actual occupant. The most numerous cases were not of property unjustly held,² but of doubtful privileges. The right to hunt the cat, the fox, and the hare was often contested with strange pertinacity. Still more frequently was the right of the gallows questioned, as, wherever this existed, the profitable fines for all felonies were diverted from the crown. Often the right to hear suits in a particular hundred became matter of inquiry. How strangely England was tessellated with little dominions, owing nothing to the crown but vassalage and taxes, and independent for all common purposes of justice, is very apparent from the records of the commission. It is said the king gained little by their proceedings, and it may be true that his revenue was not much enhanced; but Edward was not a man to protract a profitless inquiry; and it is pretty certain that in the course of years the crown would have

¹ Placita de Quo Warranto, p. 745.

² One reason for this, no doubt, was, that by the statute called De Bigamis, passed in 1276, the king

might occupy forcibly any land encroached upon him by a man still living, leaving the occupant, if aggrieved, to his legal remedy. Statutes of the Realm, i. p. 43.

lost much if it had never taken stock of its rights and property. But the offence of claiming back its own from those who had the title of possession was none the less resented because it wore the colours of legality. Once Edward, in an idle moment, asked the young men of his court what they talked about while their fathers were with him in council. Under promise that he would not resent it, he was told the doggrel verses that had been the pastime of the day's idleness:—

Le roy cuvayte nos deneres,
Et la rayne nos beaus maners,
Et le "quo warranto"
Maketh us all to do.¹

One secret of the king's success in carrying out his measures to re-establish the royal authority lay doubtless in the strong love of justice, that made him as ready to redress the wrongs of his subjects, as to repel encroachments on his own revenue and prerogative. At the same time that he issued the commission of "Quo Warranto" he changed almost all the sheriffs in England, and caused inquiry to be made into their conduct. "No good came of it," says an old chronicler,² but the fault lay with a generation corrupted by Henry III.'s government, not with the energetic sovereign. As the country was traversed by officials eager to discover and reform grievances, occasion was furnished to litigious men to rake up old offences and threaten vexatious suits. Attempts were even made to revive the old troubles of the civil war, which had left questions of broken covenants behind it. A new statute (Nov. 1276)³ provided for summary justice, and enjoined a wise discretion in the dealing with worn-out feuds or

¹ The king covets our money,
And the queen our fair manors, &c.

² *Annales de Dunstapliâ*, p. 263.

³ *Statutes of the Realm*, i. p. 44.

insignificant matters. But while the issue with thinking men was to establish the king's character, much trouble was caused for the time, and the persons impleaded and troubled were mostly those who had possessed the power to do wrong.

The first parliament of prelates, magnates, royal councillors,¹ and representatives of the commons was held by Edward I. in the Easter of 1275, and occupied itself with legislative reforms. The clergy were freed from the burden of compulsory hospitality, and were to be protected by the king's justices against all trespasses and purveyances. Their most coveted privilege was again conceded, and clerks accused of felony were to be delivered to the ordinary for trial, under charge that they should receive sufficient punishment. A clause providing against force or intimidation at elections testifies to the growing importance of Parliament. Several important articles were directed against abuses of authority by the crown officials; against the constables of castles who levied illegal dues; the sheriffs' officers who refused sufficient bail; the sheriffs who levied excessive fines, or withheld quittances of debts; and against any king's officers who promoted suits. A provision that the crown should prosecute in cases of rape, if no action were commenced within forty days, is incidental proof of a higher respect for law. Generally, justice was made more rigid. The "*peine forte et dure*," of scanty fare and hard imprisonment, for felons who would not put themselves on the country, was either introduced or enforced. Men impounding on their

¹ The words of the writ for publishing the Statutes of Westminster state, that they have been made by the common counsel of the prelates

and magnates, and are subscribed also by all the king's ministers. Statutes of the Realm, i. p. 39.

own property were to have their castles summarily demolished, if they did not deliver up the stock on the offer by the sheriff of sufficient bail. Nobles extending their jurisdiction to strangers passing within their franchises were to be heavily fined. A provision against spreading false reports, which might cause discord between the king and estates, was a mischievous reminiscence of the civil wars, and copied from a rescript of Henry III.¹ But a provision restricting the aids, at the knighthood of the lord's son, or marriage of his daughter, to five per cent. on the whole income of the property,² was a valuable safeguard against excessive tallages. The other enactments were mostly on smaller or technical points of feudalism. But it is noticeable that a clause, providing that the course of justice should not be suspended during Advent, Septuagesima, and Lent, is said to be at the special request of the king made to the bishops. The State did not yet dare to legislate on matters ecclesiastical.

In the following October, Edward met a fuller parliament of lords, spiritual and temporal, with representatives of shires and boroughs at Westminster.³ The treasury was in urgent want of money, and the current expenses of the government were defrayed by loans.⁴ Rather against their will, the lay members of Parliament consented to a tax of a fifteenth on all their personalty, and ratified a perpetual toll of half a mark on the sack of wool, and a mark on the last of hides.⁵ By

¹ New Rymer, vol. i. part ii. p. 467.

² Twenty shillings on the knight's fee, and as much on twenty librates of land held in socage. See p. 210, note 5.

³ This seems proved by the title of

the writ for levying the wool-toll,—
“*Prælati, magnates, et tota communitas concesserunt.*”

⁴ Wikes, Gale, ii. p. 100.

⁵ Coke's Institutes, part iv. p. 29.

this statutory enactment the exemption claimed by London from all tolls was annulled. Its continuance was incompatible with a general taxation of the country, and the citizens seem to have acquiesced readily, being now on the most friendly terms with the crown. But it was more difficult to obtain supplies from the clergy. They pleaded, with much reason, that they had been drained for many years by collectors for pope and king, and a new assessment was now going on for the six years' tenths voted at the Council of Lyons. Above all, the bishops represented that no proctors of the clergy had been summoned, and that the spiritual estate could not be taxed without consent of its representatives.¹ It was agreed that the question should be referred to convocation, but, in fact, the royal officers seem to have accepted a composition,² and wherever this was not paid the fifteenth was taken by force.³

It was more than a sentimental satisfaction to clergy and people suffering by the new taxation, that the Jews were debarred their immemorial trade of usury. Ever since Richard's crusade the position of the outcast people in England had been growing worse and worse. In all disorders they were among the first sufferers. Once (1244) their quarter was attacked and sacked at Oxford, and no convictions for felony could be procured.⁴ During the civil war, they were pillaged as royal property,

¹ "Because the prelates could not and ought not to impose the necessary contributions, when their clergy had not been summoned or consulted." Wikes, Gale, ii. p. 103. The Ann. de Dunstapliâ (p. 266) state, however, that the fifteenth was granted by clergy and people, but this probably refers to the tax on the

laity. Compare Ann. de Wintoniâ, p. 119.

² "1275. We fined with the king for the fifteenth throughout our property for ten marks." Ann. de Dunstapliâ, p. 268.

³ Matt. West., p. 408.

⁴ Wikes, Gale, ii. p. 45.

or murdered as conspirators on the royal side. Naturally they retorted a bitter hatred upon their oppressors. Once (1268) they attacked a procession at Oxford, and cast down the crucifix. Stories of Christian children carried off to be circumcised (1235), or crucified (1255), were perpetually afloat, and supported by more or less of colourable evidence. Nor was the persecuted religion altogether without influence on society. Once, at least, (1223), England was scandalized by the spectacle of a deacon apostatizing,¹ and the charge of Jewish heresy was constantly brought against those whose ruin was resolved on, from the German emperor to the English knight. But the law of their existence in England made the Jews a branch of royal revenue, exceptionably protected, controlled, and pillaged. Supposed to enjoy special favour in the law-courts, because all their gains lay at the king's mercy, they were constantly amerced on slight pretexts by the Crown, or doomed to sustain the burden which the nation declined. Under John they once paid a contribution equal to a year's revenue of the kingdom.² Henry III. sold them for some years to his brother, "that those whom the king had flayed the earl might disbowel." The interest they charged, varying from forty to eighty per cent., is to our notions monstrous, but was compensated by the wholesale remissions of debts which a favourite at court would obtain from the king.³ That a whole people should continue to amass wealth, which it held only at the tenure of

¹ Paris, *Hist. Minor*, ii. p. 254.

² 66,000 marks. Madox, *Hist. of the Exchequer*, p. 151.

³ Thus, in 1264, Gilbert de Clare obtained a quittance for a dependent for £70, due to Cress, the son of

Mosseye; and in 1265, Thomas de Clare, and Adam le Despenser, obtained similar quittances for all moneys owed to Jews. *Excerpta e Rot. Finium*, ii. pp. 415, 421.

royal caprice, is at first sight almost miraculous. But the Jews knew that their hope of existence was bound up with their wealth; if they once ceased to be necessary, or lost the power to bribe,¹ they were without hope. Accordingly, they worked and prospered in the land, till manor upon manor was mortgaged or even aliened to them. Thus the convent of St. Alban's, having a quarrel with a neighbour who enfeoffed a Jew in insult to the brotherhood, raised the question at law, whether a Jew could own a freehold in England?² The question had issues of the last importance, for it involved the whole right of equal citizenship. If a Jew might own land he was entitled to all its incidents,—the oath of fealty, the wardships and marriages; he might even acquire a barony, and receive a summons to attend the king's council. The judges being, it is said, bribed, were at first favourable to the Jews, but the strong remonstrances of the clergy and public feeling prevailed.³ One of the last acts of Henry III.'s reign was to issue a statute (July 25, 1271), forbidding Jews to own any realty, except houses in towns for their own use. Another provision forbade Christians to serve them. From that day the fate of the Jews was sealed; a decision three years afterwards (Aug. 1274), that no Christian was to buy the flesh of animals forbidden by the Jewish law, under pain of excommunication, showed that council and people desired to carry persecution into the smallest details of daily life.⁴ Edward would naturally incline

¹ In 1256 seventy-one Jews, found guilty of crucifying a boy at Lincoln, being still unhung, their brethren are said to have bribed the Franciscans to intercede for them, and thirty-five were accordingly par-

doned. Paris, *Hist. Major*, pp. 922, 924.

² *Gesta Abbat. Mon. S. Alb.*, i. pp. 401, 402.

³ *Liber de Ant. Legibus*, p. 234.

⁴ *Liber de Ant. Legibus*, p. 172.

to the same policy. He consented to an enactment that the Jews should renounce usury under pain of being hanged as felons,¹ and should live in future by retail trade and agriculture. They were further to wear linen tablets on their dress as a distinguishing badge. It is always difficult to know how far a statute is carried out; ten years later we meet with a royal quittance to a man whom his Jewish creditors are oppressing with usury. On the other hand, there is some evidence of their progressive impoverishment.² From the trials and executions that took place two years later, it seems that they directed their activity to clipping and adulterating the coin. Two hundred and eighty were hanged in London alone, and many in other parts of the kingdom, while their Christian accomplices escaped with fines.

There was great rejoicing among the clergy at the pious laws against Hebrews and usury, though it is difficult to see why landed proprietors and suitors for preferment, who were often in want of money, should have rejoiced at being debarred the aid of money-lenders. The real gain was to Lombards and London merchants. But Edward had not been animated by any peculiar love for the Church in his late exceptional legislation. No man was better fitted to distinguish where the dues of the Church ceased, and where the rights of the State began.

¹ Madox, *Hist. of the Exchequer*, p. 177. It is noticeable that Jews were excluded from the benefit of the statute of Acton Burnel in 1283. *Statutes of the Realm*, i. p. 54.

² Thus 9 and 10 Edward I. a writ issues to the barons of the exchequer, enjoining them to give further time to Aaron le Evesque, who has been

utterly impoverished by payments to the crown. 18 Edw. I. the barons are admonished to examine into the tallage of Belia of Gloucester, who has been so heavily tallaged that she has nothing left to live with. Madox, *Hist. of the Exchequer*, pp. 173, 176, notes ¹ and ².

It was a tradition of those times that England had been conquered by the Normans,¹ because so much of the country was in the hands of churchmen; and since then the proportion owned by the Church had increased largely. Among all orders the prevailing sentiment was one of legal conservatism; a desire that the existing order should be preserved, without gain or loss to the crown or any estate. In this spirit Magna Charta had provided that no fees should be aliened from the baronage to the crown; and the Parliament of Merton had compromised on the vital question whether new fees might be constituted.² For many years past, the great danger to the balance of power appeared to come from the regular clergy, who, favoured by the success of the mendicant orders, were adding house to house and field to field. Never dying out like families,³ and rarely losing by forfeitures, the monasteries might well nigh calculate the time, when all the soil of England should be their own. It is doubtful whether they withdrew much from the warlike strength of the country,⁴ as only lands held by frank-almoigne were discharged from contributions to military service. But

¹ Gesta Abb. Mon. S. Alb., p. 50.

² See pp. 88, 177. Compare the clauses in feoffments not to alien to religious houses. Madox, *Formulare Anglicanum*, pp. 196, 197.

³ Of course there are cases where an impoverished monastery was bought up, or otherwise absorbed, by another, and extinguished. Gir. Camb., Spec. Ecc., pp. 152, 168. But its lands remained church-lands under almost any vicissitudes. The case of the alien priories is rather an apparent, than a real, exception, as their lands were mostly diverted to religious purposes.

⁴ Thus, in 1404, the archbishop of Canterbury said in Parliament, that the king got as many soldiers from church fees as from lay; an assertion which seems to confirm Sprot's statement, that the Church owned in the proportion of twenty-eight in sixty. Walsingham, ii. p. 265. Bishop Pecock speaks of the great number of lawyers, knights, and squires, whom the Church maintained; though he contrasts the quiet character of the church tenantry with the fighting and brawling dependants of great lords. Repressor of Overmuch Blaming, p. 371.

the fees transferred to them were drawn from the possessions of the baronage, and the land which the clergy held was locked up for ever from the class of men who desired to invest. Accordingly, one of the first acts of the barons under Henry III. had been to enact, that no fees should be aliened to religious persons or corporations.¹ Edward re-enacted and strengthened this by various provisions in the famous Statute of Mortmain. The fee illegally aliened was now to be forfeited to the chief lord under the king; and if, by collusion or neglect, the lord omitted to claim his right, the crown might enter upon it. Never was statute more unpopular with the class at whom it was aimed, more ceaselessly eluded, or more effectual. One chronicler believes it to have been a judgment on the Benedictines for resolving to shorten their services by omissions, as of the Athanasian Creed.² Once the clergy seem to have meditated open resistance, for, in 1281, we find the king warning the bishops, who were then in convocation at Lambeth, as they loved their baronies, to discuss nothing that appertained to the crown, or the king's person, or his council. The warning appears to have proved effectual, and the clergy found less dangerous employment in elaborating subtle evasions of the obnoxious law. At first fictitious recoveries were practised; an abbey bringing a suit against a would-be donor, who permitted judgment against him to go by default. When this was prohibited,³

¹ Statutes of the Realm, i. p. 10.

² *Gesta Abb. Mon. S. Alb.*, i. p. 464.

³ In 1285, by the Second Statute of Westminster, c. 32. Statutes of the Realm, i. p. 87. A less subtle form of evasion was to transfer the fee and

receive it back again on lease. How this can ever have been considered legal is difficult to understand, but it had to be forbidden in the republication of *Magna Charta* (c. 36) in 1297.

special charters of exemption were procured.¹ Once an attempt was made to smuggle a dispensing bill through parliament.² One politic abbot in the fifteenth century encouraged his friends to make bequests of land, suffered them to escheat, and then begged them back of the crown, playing on the religious feelings of Henry VI.³ Yet it is strong proof of the salutary terror which the Statute of Mortmain inspired that even then the abbot was not quieted, and procured an Act of Parliament to purge him from any consequences of his illegal practices. In fact, the fear, lest astute crown lawyers should involve a rich foundation in wholesale forfeitures, seems sometimes to have hampered its members in the exercise of their undoubted rights as citizens. The abbey of Meaux in Yorkshire paid off an old loan from its order in a sudden panic, apparently lest a long-standing mortgage should be considered a fraudulent transfer.⁴

There is no reason to suppose that Edward had any secret idea of ruining the Church. Himself the founder of a stately Cistercian abbey,⁵ and a man whose oblations and alms were a large sum in his yearly ex-

¹ As many as thirty were obtained during the three reigns of the first Edwards by the Abbey of Coventry. Dugdale's *Monasticon*, iii. pp. 196-198.

² In 1389, the colleges and clergy of Oxford, having purchased largely in the city since the 20th of Edward I., tried to carry a bill through the Lords, (probably sent up from the proctors of the clergy in Parliament), to invest all their new acquisitions with the immunities and privileges of the ancient temporalities. The Commons prayed that the bill might not be

allowed to pass without their assent. Rot. Parl., iii. p. 276. This shows pretty clearly that, even where they were allowed to invest in land, it was not desecularized.

³ In the 18th of Henry VI. Newcome's *History of St. Alban's*, pp. 334, 335.

⁴ *Chronica Mon. de Melsâ*, ii. pp. 308-310. Perhaps the act against alienating of lands by religious houses is that really intended. *Statutes of the Realm*, i. p. 91.

⁵ Vale Royal in Cheshire. Tanner's *Not. Monast.*, p. 63.

penses,¹ he displays even as a legislator a genuine anxiety for the real interests of the Church. In the second Statute of Westminster (1285) he provided against illegal presentations, such as the pope had often practised, to the wrong of English ecclesiastics, while a clause, copying the Statute of Mortmain, forbids religious houses to alien their lands, under penalty of forfeiture to the founder's family or to the king. The intention, of course, was to provide against the waste of tenants for life, and to keep up the possessions of the Church unimpaired. Nor could the clergy complain of a later statute, carried with their full assent, and probably at their instance, which forbade the heads of religious houses to tax their lands and send the money out of the country.² Whatever was lost to Rome was a gain to the English clergy. But while he desired to see them rich and efficient, Edward was equally resolved that his clergy should have no privileges incompatible with the civil order of the realm. Following the precedent, by which any one putting on the white cross was protected against suits in the courts,³ the knights Templar and

¹ Out of £64,105 0s. 5d. disbursed in the year 1299-1300, £1166 14s. 6d. are entered as alms and oblations. After all allowance for grants to religious houses in requital of their hospitality, what remains represents a very liberal scale of expenditure. *Liber Contrarot. Garderobæ*, pp. vii.-xi. In fact, alms were given during the year to more than one hundred and thirty thousand people, assuming each donation to have been separate; and, on the more probable assumption of regular pensioners, the number of these averaged about seven hundred a week, besides those who came in for special gratuities.

² 33rd of Edward I. re-enacted in the 36th. *Statutes of the Realm*, i. pp. 150-152. At the Parliament of Carlisle, Jan. 1307, the lower clergy were very largely represented, several bishops and abbots sending proxies, and all the dioceses returning proctors. However, in the statement of grievances the petitions were all said to be presented by the lords and commons, without special reference to the clergy. *Rot. Parl.*, i. pp. 189-191, 220.

³ A mere pilgrim was allowed protection for a year and a day; a crusader, till his return. *Bracton de Legibus*, f. 339.

Hospitaller were accustomed to set up crosses on land which did not even belong to them, and defend it by the privileges of the order against the demands of the lords of the fee. By the second Statute of Westminster, such lands were to be forfeited to the chief lords or to the king, like lands in Mortmain. The abuse of withdrawing suits into their own courts was forbidden, and as they not unfrequently appointed monks to be their judges, from whom no damages could be recovered, it was enacted that the superiors should be liable. These provisions are clearly part of a more extensive system by which the limits of the spiritual jurisdiction were defined. So stringent were the prohibitions enacted, that the judges applied for instructions whether they should allow the bishop of Norwich to hold spiritual pleas in his diocese. The king in a rescript¹ explained that, in all matters purely spiritual, such as the reformation of manners, the levying of tithes, mortuaries, and pensions, or in cases of defamation and violence to clerks, where the pursuer did not seek to recover a fine, the spiritual judge might still exercise jurisdiction. But wherever the plea has a secular side, where the tithes have been sold to a layman and become temporal, where important questions of patronage are mixed up with tithes, or where the penances imposed take the form of fines, the jurisdiction belonged to the secular court. In other words, the principle which the clergy had so long contended for, that all cases touching morals or church property, however remotely, were to be re-

¹ I cannot persuade myself that the statute, so called, of "Circumspecte Agatis" (Statutes of the Realm, i. p. 101), is anything more than a body

of instructions, drawn up by the king in council, for the defining of new laws. Of parliamentary authority the preamble says nothing.

served for the Church,¹ was exchanged for a different doctrine, that nothing was to be won from the State unless it belonged wholly to a domain in which the State did not intrude. Nor were these concessions mere paper-enactments. Four years later (1170) the king took an offender out of sanctuary, and banished him from the kingdom, only sparing his life on account of his former rank.² Yet so changed were the times and so powerless the clergy against a competent monarch that these acts of vigour did not even excite a murmur. Edward was king as no sovereign had been since the days of the Conqueror, and almost all for which Becket had lived and died had for ever passed away like an evil dream.

¹ Compare the statement of clerical rights drawn up by Adam de Marsh for Grosseteste, in which it is laid down, that the Church has its own laws and rights in the acquisition of temporalities, and the only

cases in which the clergy are to answer before secular judges are stated to be those which concern fees, taxes, and patrimonial offices. *Annales de Burton*, pp. 426-429.

² Wikes, Gale, ii. p. 119.

CHAPTER X.

THE CONQUEST OF WALES.

UNION OF WALES. THE LORDS MARCHERS. UNION OF THE NORTH UNDER A SINGLE DYNASTY. LLEWELLYN'S REFUSAL OF HO-
 AGE. NEGOTIATIONS. FIRST WELSH CAMPAIGN. LLEWELLYN'S
 SUBMISSION. EDWARD'S CONDUCT TO LLEWELLYN AND DAVID. QUAR-
 REL OF THE WELSH PRINCES WITH THE ROYAL OFFICERS. SECOND
 INSURRECTION. EDWARD'S CAMPAIGN. DEATH OF LLEWELLYN.
 CAPTURE, TRIAL, AND CONDEMNATION OF DAVID. STATUTE OF
 WALES. LAST DISORDERS.

LONG before the accession of Edward the Wales of Saxon times had been broken up. Of its three old kingdoms, Powys on the eastern marches, and De-
 ewbarth south of the Dyfi, were mostly parcelled
 out into little English principalities. The English
 lords marchers, whose dominions girdled the country
 from Chester to Pembroke, claimed something like
 royal or palatine rights. They had their own chancery
 and justiciaries; they took the first cognizance of all pleas
 in their lordships;¹ and while they sometimes received in
 their charters a grant of all future conquests to be won

¹ Madox, *Baronia Anglica*, p. 154. In 1272, the earl of Gloucester maintained that the king's commissioners could not make a truce without his consent. *Royal Letters*, ii. p. 342. Compare a deed quoted by Mr. Wakeman (in the *Archæologia Cambrensis*, iv. p. 142), in which Lau-

rence de Hastings, earl of Pembroke, gives a pardon to Nicolas de Shirbourn "for all kinds of homicides, robberies, felonies, &c.," with the proviso, however, that he shall answer any private suit in the earl's court. This was in 1340.

upon "our enemies the Welsh,"¹ they were never slow to enforce their claims upon English neighbours with the sword.² Our Norman nobles, who were the most practical of men, were never restrained by any theory of inferior races or base blood from a profitable intermarriage. From an earl of Chester down to Braoses, Mortimers, and Barris, all were eager to strengthen the title of the sword by more natural claims.³ Our kings followed the same policy. Henry II. gave his sister Emma in marriage to David ap Owen,⁴ who had usurped the royalty of Gwyneth. The alliance was not profitable to the Welsh prince, whose subjects transferred their allegiance to the rightful heir, Llewellyn ap Iorwerth. The transfer indicated a change of policy for

¹ Mr. Milman, in his instructive paper "On the Political Geography of Wales," appears to regard this clause as an authorization to make war at any time. *Archæologia*, xxxviii. p. 25. But the instances he quotes belong to a year (1199) when John was at war with the most powerful prince of Wales, and there is considerable evidence that the prince of Wales, like any other vassal, might appeal to the king's court against a powerful neighbour. Thus, in 1221 and 1223, Llewellyn ap Iorwerth appealed to the king in council against the earl Marshal. *Brut y Tywysogion*, pp. 309-315.

² The earliest accredited instance of private war, carried on with regular formalities in England, is between the earls of Pembroke and Gloucester. *Madox, Formulæ*, i. 155. Curiously enough, the two other most famous instances are in the same district, between the earls of Gloucester and Hereford, in the time of

Edward I., and between Lord Berkeley and Lord Lisle, under Edward IV. Allen, *On the Royal Prerogative*, pp. 122-123. For some slighter cases, see *Royal Letters*, ii. pp. 214, 219, 232.

³ John le Scott, seventh earl of Chester (1231-1244), married a natural daughter of Llewellyn ap Iorwerth, called Helen by Dugdale (*Baronage*, i. p. 45), and Jane in Lloyd's *History of Wales*, p. 297. Gladys Dhu, Llewellyn's legitimate daughter, was married first to Reginald de Braose, and afterwards to Ralf de Mortimer; Margaret, another daughter, married John de Braose; and Gerald of Windsor, the founder of the Barri family, married Nest, the daughter of Rhys ap Tewdwr. *Gir. Camb., de Rebus a se gestis*, lib. i. c. i.

⁴ *Brut y Tywysogion*, p. 225. Emma was probably a natural daughter of Geoffrey of Anjou.

the time. David had garrisoned his castles with English soldiers. Llewellyn, under the leadership of Gwenwynwyn, a prince of the south, swept down on the English border. The attempt was ultimately defeated, but Llewellyn, who seems to have held out longest, obtained the best terms from his conqueror, being first admitted to an equal peace, on condition of acknowledging himself the English king's vassal (1201),¹ while a little later (1205),² he received the hand of Joanna, one of John's natural daughters. From that time the star of the Welsh prince rose steadily. He reduced Gwenwynwyn to vassalage; obtained a papal absolution during the last years of the interdict from his oath of fealty to John (1212), and, in a series of small expeditions, razed many of the castles with which his territory was bridled. With the restoration of peace in England, he might, in less favourable times, have sunk again into his old condition of vassalage, as only one among a number of turbulent nobles. But he was a man of ability, the circumstances of the reign favoured him. He treated with Henry III. as an equal.³ He drove back the royal army in one campaign, through the treachery of the nobles who hated Hubert de Burgh (1228), and reduced several important fortresses (1233) as the confederate of earl Marshal in his rebellion. His submission towards the end of his life (1237), when he was bedridden and paralytic,⁴ was merely that he might secure the English interest in favour of his eldest legitimate son David against the bastard, Griffith, who was troubling him with rebel-

¹ New Rymer, vol. i. part i. p. 84.

² Rot. Chart. in Turr. Lond., p. 147.

³ "Non quia teneamur excusare nos," he writes about harbouring an

outlaw. But the English council evidently took a different view. Royal Letters, i. p. 229.

⁴ Paris, Hist. Major, p. 437.

lions. It suited English policy that the son of the princess Joanna should succeed, and Griffith died, in the attempt to make his escape from an English prison, under circumstances of some suspicion.¹

On the death of David without children (1246), the question of the Welsh succession was opened again. To all English notions, the rightful heir was Roger de Mortimer,² son of Gladys Dhu, David's legitimate sister, who had been given in second marriage to Ralf de Mortimer. The Welsh nobles, however, set aside altogether the claims of an alien, and divided the principality between Llewellyn and Owen the Red, the sons of Griffith ap Llewellyn, David's illegitimate brother. Curiously enough, their decision does not seem to have been appealed against. Perhaps the English government preferred to see Wales divided among its native chiefs, to a strong rule under an English noble, whose marriage with a co-heiress of the Marshals gave him lands from Pembroke to Montgomery. Left to themselves, the two brothers soon drifted into a civil war, and Llewellyn (1254) made himself master of the land. The insurrection provoked by prince Edward followed, and Llewellyn seemed within reach of absolute independence, when Simon de Montfort, in his last campaign, offered to

¹ Brut y Tywysogion, p. 331. David's anger, at the death of a brother whom he had despoiled and imprisoned, was probably caused by the idea that his gaolers had connived at the attempted escape. It is curious that Paris, who gives the circumstances of the death very minutely, represents Griffith as alive, and actually escaping, two years later. Hist. Major, pp. 617, 695.

² That is, on the assumption, some-

times vaguely entertained, that a woman could transmit the title to a throne, but not inherit it. By a Welsh precedent, however, of the ninth century, when Easylht, daughter of Cowan, carried the throne to her husband, Mervyn Vrych, there was no reason why Gladys Dhu and her husband, Ralf de Mortimer, who lived some months after David, should not have succeeded him.

annul all the concessions and restore all the lands that had been wrested from the prince of Wales or his predecessor. But with the battle of Evesham the cloud-land of a renovated Welsh sovereignty disappeared, and two years later (1267) Llewellyn purchased a peace, by the promise to pay thirty thousand marks in instalments, while, in return, the king recognized him by the title of prince of Wales. The recognition of a title which Henry had once conferred on his eldest son,¹ and the fact that Llewellyn retained a portion of his conquests, show that the Welsh chieftain knew well how to hold his own. But his success against a weak sovereign, during a reign shaken by civil war, blinded him to the real nature of his own strength. With the progress of Norman civilization, the Welsh had learned much in the art of war, and their princes could bring heavy-armed soldiers into the field, or besiege castles, as well as any English nobleman. They were even stronger than an earl of Gloucester or Leicester, standing simply by himself, inasmuch as they governed a compact territory, swayed the devotion of a whole nationality, could fall back upon difficult mountain ranges, and possessed the best guerilla troops of the country. But the genuinely Welsh parts were diminishing every year. A petition from the men of Keri, in Montgomery, praying Henry III. that Wales and the Marches may be included in the English pale,² shows that there were

¹ So says Lloyd in his *History of Wales* (p. 309), quoting the *Tower Records* for 1245, and the statement seems to be confirmed by the clause in this treaty of Montgomery that the king, "by the will and assent of his eldest-born, Edward, given to

him, grants the principality of Wales to the aforesaid Llewellyn and his heirs, in such sort that they be called princes of Wales." *New Rymer*, vol. i. part i. p. 474. Compare Knyghton, c. 24, 35.

² *Royal Letters*, ii. p. 353.

men who did not value the possession of a barbarous independence. The petitioners object that, by Welsh law, the crime of the guilty was visited on their innocent kindred, and that, by the practice of the border courts, a decision in the king's court was not treated as final. But, in fact, the strong contrast between the interminable disorders of Welsh rule, and the strict order which was maintained in England proper, could hardly fail to impress the dwellers in a debateable district. Wales was only Welsh in parts where the Norman scarcely cared to come.

There were undoubtedly reasons why Llewellyn should look forward with anxiety to his relations with England under Edward I. He had driven the king, as a young man, with some disgrace out of Wales; he had constantly sided with the barons against the crown, and, at a time when disaffection was still rife, he was betrothed to a daughter of the late earl of Leicester. The relations of Welsh and English on the Marches were always difficult, and whether a new fortress was built or a new market opened,¹ one or other of the neighbouring peoples was certain to think itself aggrieved. The presence of Welsh exiles on the border, who made forays into the principality, and sold their plunder in English towns,² was the natural consequence of a divided

¹ Thus in June, 1273, Llewellyn is warned by the council not to build a castle or open a fair at Abrunol, near Montgomery, for fear the trade of the neighbourhood be impaired. *New Rymer*, vol. i. part ii. p. 504.

² Compare Llewellyn's complaints, that the men of Griffin have ravaged his lands and sold their booty at Shrewsbury and Montgomery, with the letters of W. de Christchurch,

complaining, that Llewellyn's men have made three forays from Buelt into English territory, while the bailiff of Buelt informs Llewellyn that his men have been peaceable, but that the merchants of Buelt and other places have been plundered and imprisoned at Leominster fair by the men of Roger de Mortimer. *Royal Letters*, Fifth Report, Nos. 755, 777, 778.

dominion; and the border wars, embittered by the animosities of civil feud, were waged with a ferocity unknown in the rest of England. Nevertheless, the Welsh princes were so thoroughly regarded as part of themselves by the baronage, that there was a great jealousy of extreme measures against them; and this would naturally be strong after a civil war, when all offences had been condoned. Accordingly, had Llewellyn acted with common discretion or honesty, he might probably have retained his sovereignty to the last; but he calculated on a divided people, and an embarrassed exchequer, to raise pretensions which no suzerain could submit to. The first summons from the council to perform homage was contemptuously disregarded, and the king's commissioners waited in vain for the prince at the trysting-place. A second order, to pay part of the debts due to the treasury, was eluded by the excuse that Llewellyn must consult with his council; and, down to the time of Edward's arrival, the prince of Wales had given no other sign of vassalage than by professing his readiness to supply venison for the coronation banquet. A third appointment to do homage at Shrewsbury was broken off by the king's illness (Nov. 1274), but next year an appointment was made for Chester, and the king went up north to receive his vassal. By this time both sides were distrustful. The sheriff of Shropshire was warned, by a royal brief, not to trust himself in Llewellyn's power, or commit himself to any negotiations; and Llewellyn again failed to appear. At last, having received a peremptory summons to attend the king's parliament at Westminster (Sept. 1275), he replied by an insolent letter, stating that he was afraid of sharing the fate of his father, Griffith, and refusing to come unless the king's son, the chancellor, and the earl of

Gloucester, were given as hostages.¹ At the same time he wrote to the pope, stating that he could not come in safety to the meeting-places appointed, and that the king had broken the last treaty by harbouring Welsh traitors. The excuses were quite worthless. The first place appointed during the regency had been close to Llewellyn's own castle, and until he had performed homage he had no claim to redress from a new sovereign. His intentions are better interpreted by his acts than his words. He sent over to France for his betrothed wife, Eleanor de Montfort, the sister of the king's worst enemies, and one who, as the king's cousin, would be doubly dangerous in opposition to his interests.² The lady sailed in company of her brother Almeric. But four Bristol ships were on the watch for them, and they were brought captive to the king, who consigned Almeric to a prison, while he kept Eleanor in honourable custody at court.

Llewellyn's position was becoming every day more critical. If he crossed the border in pursuit of a stag, he found his presence the signal for the whole district to rise in arms.³ His brothers, David and Owen, conspired against him; and when the plot was detected, David with his following escaped into England. Inasmuch

¹ Matt. West., p. 407. Trivet, p. 292.

² It is noteworthy that one of Edward's first acts had been to secure her dower, as countess of Pembroke, to his aunt. Blaauw's Barons' War, p. 296. This seems to have been at the request of Philip III., who, in consequence of transactions between Louis IX. and Henry III., was answerable for a part of it, amounting to 8000 marks.

Royal Letters, Sixth Report, Nos. 1124-1130. On her death, in 1274, the restraint upon her family was removed. Yet, as she left property to her daughter, it might be doubtful how far Eleanor was not a royal ward, only to be married with the king's consent.

³ Royal Letters, Sixth Report, No. 1328. Pauli, Gesch. v. England, iv. s. 19.

as the three legal summonses had been served, the prince of Wales might at any moment be deprived of his fief by sentence of the king and peers. It seems marvellous lenity, that the sentence was actually delayed till October 1276, when Llewellyn had roused public opinion to the uttermost by repeated forays along the marches, and by an insolent reply to the unofficial negotiations of the primate, that he would do his homage at Montgomery if the king's safe conduct were guaranteed by certain of his council, if the old treaty were confirmed, and reparation made for its infringements; and provided his affianced wife were restored to him. The whole force of the realm was accordingly summoned to meet at Worcester in June of the next year; and so well was the command obeyed, that Edward found himself able to dispose of three armies. With the first he himself operated along the north, opening a safe road through the Cheshire forests, and fortifying Flint and Rhuddlan, while the ships of the Cinque Ports hovered along the coast and ravaged Anglesey. The second *corps d'armée*, under the earl of Lincoln and Roger Mortimer, besieged and reduced Dolvorwyn castle in Montgomeryshire. The third was led into Cardigan by Payne de Chaworth, who ravaged the country with such vigour that the South Welsh, (being probably disaffected to a prince not of their own lineage), surrendered the castle of Stradewi and made a general submission. Edward had avoided the fatal errors of previous commanders, who had risked their forces in a barren and difficult country. His blockade was so well sustained, that Llewellyn was starved, rather than beaten, into unconditional submission. With singular moderation, Edward had declined receiving the homage of

the southern chiefs.¹ He now granted Llewellyn honourable terms, (Nov. 5, 1277). A fine of £50,000 was imposed to mark the greatness of the victory, but remitted next day out of the king's grace. Four border cantreds, lying about Diganwy, Denbigh, Ruthyn, and Rhuddlan,² old possessions of the English crown, which Llewellyn had wrested from it in the wars of the late reign, were to be surrendered to the English king who already occupied them. Prisoners in the English interests were to be set free, and Llewellyn was to come under "an honourable" safe conduct to London and perform homage. Edward had promised David half the principality, but with a reservation at the time that he might, if he chose, give him compensation elsewhere.³ He now elected to do this, moved, it would seem, simply by the wish not to dismember Llewellyn's dominions, and David was made governor of Denbigh Castle, married to the earl of Derby's daughter, and endowed with extensive estates.⁴ In every other respect Llewellyn was tenderly dealt with. The hostages exacted were sent back. The rent of 1000 marks stipulated for Anglesey was remitted. When the prince of

¹ Brut y Tywysogion, p. 367.

² Lhoyd's History of Wales, p. 334.

³ At least partially; the question of total compensation elsewhere perhaps not having been entertained. New Rymer, vol. i. part ii. p. 544.

⁴ The author of the *Greatest of the Plantagenets* says that Edward created David an earl (p. 112). I can find no proof of this, except in the promise, that "he, and Owen, and their heirs are to come to our parliaments in England, like our other earls and barons," (New Rymer, vol. i. part ii. p. 544); and in the statement of

the writ convoking the parliament of Shrewsbury in 1283, that the king had endowed David out of his own lands, "placing him among the greater men of our palace," an expression which does not seem equivalent to making him an earl. Report on the Dignity of a Peer, Appendix i. p. 49. As the Lords' First Report observes (Dignity of a Peer, p. 291), if he were an earl, it was unnecessary to summon burgesses to try him. In all documents he seems to be described simply as brother of Llewellyn, or son of Griffin.

Wales came to London to perform homage he received the last favour of all, and was married sumptuously, at the king's cost, to the lady Eleanor de Montfort.¹

There is no reason for supposing that Edward cherished any covert plans of absorbing Wales into England. Having wiped out the dishonour of his early years, and replaced England in its old position of ascendancy, he had no motive for reviving bitter memories, or dispossessing a great noble of his fief. The king's conduct in giving his cousin to one who was only her equal through an usurped royalty; the inquests held in the marches to determine border law;² the instructions to the royal judges, to judge according to local customs; the special commission appointed when Llewellyn thought himself aggrieved;³ are curious evidence of fair-mindedness in a strong-willed and almost absolute sovereign. But in one respect Edward was ill-fitted to deal with an uncivilized people. He was over-strict for the times even in England, where his subjects almost learned, before he died, to regret the anarchy of his father's reign. But his officers were nowhere harsher than in Wales, where the people, unaccustomed to a minute legality, complained that they were worse treated

¹ Dr. Pauli supposes that no one after Llewellyn was to enjoy the title of Prince of Wales. But the passage in Trivet (p. 297), on which he relies, is scarcely borne out by the treaty, which distinctly says, that Llewellyn may retain the homages of four barons, whose lands the king has seized and does not mean to restore to the principality. The motive of this reservation is, no doubt, partly in the desire to spare Llewellyn's feelings, but chiefly, I think, in the dislike of a punctilious mind to unne-

cessary transference of the strongest personal bond between man and man. Another instance of our chroniclers' inaccuracy is to be found in Hemingburgh's statement (ii. p. 5), that Llewellyn bound himself to attend parliament in London once a year. No such article occurs in the treaty; no such service was ever rendered; and no complaint of its omission was ever made.

² *Calend. Geneal.*, i. p. 270.

³ *New Rymer*, vol. i. part i. p. 557.

than Saracens or Jews. Old offences were raked up; wrecking was made punishable; the legal taxes were aggravated by customary payments; and distresses were levied on the first goods that came to hand, whether Llewellyn's own or his subjects'. The people of the four annexed cantreds were soon ripe for rebellion. David was alienated from the English cause by petty quarrels with Reginald Gray, justice of Chester, who insisted on making him answer before the English courts, hanged some of his vassals, and carried a military road through his woods. The Welch gentlemen complained, that they were removed from offices which they had purchased, brought to justice for old offences which ought to have been condoned by the peace, and deprived of their jurisdiction in local courts.¹ For a time the lady Eleanor tried to mediate between her husband and her cousin.² But it was impossible that a stern just man like Edward, penetrated with the most advanced doctrines of European legists, and deriving his information from English *employés*, should be able to understand the position of the chief of a semi-barbarous nationality, who thought outrages on law matters to be atoned for by fines, while he brooded with implacable rancour over every slight, real or fancied, to his own position as prince of Wales, representative of a dynasty that had ruled "since the time of Camber the son of Brutus." Moreover, Llewellyn thought, perhaps unreasonably, that he had been betrayed by Edward. He said that on the day of his marriage the English king had forced him to subscribe a document, to the effect

¹ Lhoyd's History of Wales, pp. 1983.

340-364. Annal. de Dunstapliá, p.

291. Royal Letters, Sixth Report,

No. 1340; Seventh Report, No.

² Royal Letters, Sixth Report, 1333, 1334.

that he would never harbour an English exile, or maintain forces against Edward's will.¹ There was little in all this that was not implied in Llewellyn's position as vassal, and he himself did not complain that the conditions had ever been offensively pressed. A king who had granted such liberal terms as Edward might perhaps claim, with reason, that his conquered vassal should never threaten him with hostilities. But the offence was none the less deadly, that it was justified by the relations of subject and sovereign.

A curious superstition precipitated an outbreak. In the time of Henry I. some Norman had fabricated the so-called prophecies of Merlin, which were designed to reconcile the Welsh to the Norman conquest. Henry was designated in them as the lion of justice, and it was given as a sign of his reign, that the symbol of commerce would be split and the half be round.² The prophecy had already been fulfilled by the regulation for breaking coin at the mint, and making the half-penny a round piece by itself.³ In 1279, Edward issued the farthing as an entire coin.⁴ The change recalled the memory of Merlin's prophecy, and the vague oracles, that had been compiled to describe Henry's dominion over the Saxons, were easily interpreted to mean that a Welsh prince should be crowned at London, and retrieve what its natives regarded as the lost dominion of the principality. Llewellyn, it is said, con-

¹ Lhoyd's History of Wales, p. 348.

² Geoffrey of Monmouth, lib. vii. c. 4.

³ See vol. i. p. 443, note 1.

⁴ "For whereas the penny used to besplit into two parts for half-pence, and into four parts for farthings; it

was ordained to take away occasions of clipping coin, that pence, half-pence, and farthings should be round." Matt. West., p. 409. The change had been before ordered by John, and Merlin's prophecy had then also been quoted. Paris. Hist. Major, p. 230.

sulted a witch, who assured him¹ that he should ride crowned through West-Cheap. But the prince of Wales also relied on less visionary assurances. The "Quo Warranto" commission was prosecuting its labours vigorously, and had produced a wide-spread discontent in England, where men said openly, that the king would not suffer them to reap their own corn, or mow their grass.² Llewellyn was in correspondence with the malcontents, and received promises of support. His brother David was easily induced to join the rebellion, and began it on Palm Sunday, 1282, by storming the — castle of Hawarden, and making Roger de Clifford, its lord and Edward's sheriff, his prisoner. Flint and Rhuddlan were next reduced, and the Welsh spread over the marches, waging a war of singular ferocity, slaying, and even burning, young and old women and sick people in the villages.³ The rebellion found Edward unprepared, but he met it with equal vigour and efficiency. Making Shrewsbury his head-quarters, and moving the Exchequer and King's Bench to it,⁴ he summoned troops not only from all England, but from Gascony. It is possible that the foreign recruits were intended to strengthen the king's hands against subjects of doubtful fidelity, but no real embarrassment from the disaffected was sustained. The troops mustered operated in two armies, which started from Rhuddlan and Worcester,⁵ and enclosed Llewellyn, as before, from north and south. Meanwhile the ships of the Cinque Ports reduced Anglesey,⁶ "the noblest feather in

¹ "Consulto diabolo." Hemingburgh, vol. ii. p. 13.

² New Rymer, vol. i. part i. p. 575. It is noteworthy, that during 1282 and 1283 no new county seems to have been visited, though the

king's want of money was urgent.

³ Annales de Waverleia, p. 398.

⁴ Idem.

⁵ New Rymer, vol. i. part i. pp. 603, 607.

⁶ The Opus Chronicorum (p. 40)

Llewellyn's wing," as Edward joyfully observed. But the king was faithful to his old policy of a blockade. A bridge of ships was thrown across the Menai Straits, and the forests between Wales proper and the English border were hewn down by an army of pioneers. The king's banner, the golden dragon,¹ showed that quarter would be given. As the war lasted on, negotiations were attempted; and the archbishop of Canterbury, who had threatened the last sentence of the Church against Llewellyn and his adherents, was sent over to Snowdon to hold a conference. Llewellyn had already been warned that it was idle to expect assistance from Rome. He was now summoned to submit at discretion, with a hope—so expressed as to be a promise—that he and the natives of the revolted districts would have mercy shown them. In private he was informed that, on condition of surrendering Wales, he should receive a county in England and a pension of £1000 a year. David was to go to the Holy Land, and not return except by the king's permission.² These terms were undoubtedly hard, but could not be called unreasonable, as, by the subjugation of Anglesey, the principality was reduced to the two modern counties of Merionethshire and Caernarvonshire. Llewellyn and his barons preferred to die fighting sword in hand for position and liberty. The primate excommunicated them and withdrew.

speaks of a repulse sustained by Edward in marching upon Anglesey. This is evidently a confusion with the skirmish at Bangor in November, when Lucas de Tany and fourteen bannerets were slain. Compare *Annales de Dunstaplia*, p. 292.

¹ *Opus Chronicorum*, p. 40.

² The particulars of this negotia-

tion are given in full in Lhoyd's *History of Wales*, pp. 338-371. The refusal to give up the four cantreds, on the ground that they are among the oldest possessions of the Welsh, "since Camber the son of Brute," is curious incidental evidence to the influence of Geoffrey of Monmouth.

About the time of this interview (Nov. 6), there was a sharp skirmish at Bangor. Some of the earl of Gloucester's troops crossed over before the bridge was completed, except for low water mark, and were surprised and routed with the loss of their leader and fourteen bannerets by the Welsh. This encouraged Llewellyn to resume offensive operations, and he poured troops into Cardigan to ravage the lands of a Welshman in the English interest. The English forces in Radnor marched up along the left bank of the Wye, and came in sight of the enemy at Buelth (Dec. 10). Llewellyn was surprised during a reconnaissance and killed by an English knight, Stephen de Frankton. After a short but brilliant encounter, in which the English charged up the brow of a hill and routed the enemy with loss, they examined the dead bodies, and for the first time knew that Llewellyn was among the slain.¹ A letter was found on his person giving a list, in false names, of the English nobles with whom he was in correspondence,² but either the cipher was undiscoverable, or the matter was hushed up by the king's discretion. Llewellyn, dying under Church ban, was denied Christian sepulture. His head, crowned with a garland of silver ivy-leaves, was carried at the point of a lance through London, and exposed on the battlements of the Tower.³ The prophecy, that he should ride crowned through London, had been fatally fulfilled.

With the death of Llewellyn the Welsh war was virtually at an end. With all his faults of temper and judgment, he has shown himself a man of courage and capacity, who identified his own cause with his people's.

¹ Trivet, p. 304.

³ Hemingburgh, ii. p. 13. Matt.

² New Rymer, vol. i. part ii. p. 619. West., p. 411.

But David, though now implicated in the rebellion beyond hope of pardon, had fought under the English banner against his countrymen, with the wish to dismember the principality. The Welsh cannot be accused of fickleness, if they became languid in a struggle against overwhelming power, and a king who had shown them more tenderness than their leader for the time. David's one castle of Bere was starved into surrender by the earl of Pembroke, and David himself taken in a bog by some Welsh in the English interest (June).¹ His last remaining adherent, Rees ap Walwayn, surrendered, on hearing of his lord's captivity, and was sent prisoner to the Tower. For David himself a sadder fate was reserved. His request for a personal interview with his injured sovereign was refused. Edward did not care to speak with a man whom he had no thought of pardoning. He at once summoned a Parliament of barons, judges, knights, and burgesses² to meet at Shrewsbury (Sept. 29),³ and decide on the prisoner's fate. It is evident that Edward was incensed in no

¹ Wikes, Gale, ii. p. 111. Trivet, p. 307.

² "It does not appear that any prelates were summoned to this assembly." First Report on the Dignity of a Peer, p. 190. The reason, no doubt, was, that they would have claimed their right of not sitting in judgment on a case that involved the loss of life or limb. For the separate writs addressed to judges and councillors, see Appendix i. p. 51.

³ Dr. Pauli thinks that Parliament met at Acton Burnel, where the king lodged with his chancellor, the bishop of Bath and Wells. *Gesch. v. England*, iv. s. 28. The author of the *Greatest of the Plantagenets* (p. 132), thinks that Parliament sat at

Shrewsbury, and that the king took no direct share in the proceedings. The preamble of the Statute "*de Mercatoribus*" speaks of it as "made at Shrewsbury," but a grant to Rees ap Meredith (Oct. 1283) speaks of "our Parliament which we held at Acton Burnel," and of "deliberations before us and our council." New Rymer, vol. i. part i. p. 634. As Acton Burnel was only about ten miles distant, either king or estates may easily have ridden backwards and forwards. But I cannot believe that Edward was absent from the deliberations, as such absences were much disliked by the Estates. *Modus tenendi Parliamentum*, p. 35.

common measure against the traitor whom, as he expressed it, he had "taken up as an exile, nourished as an orphan, endowed from his own lands, and placed among the lords of our palace," and who had repaid these benefits by a sudden and savage war. Nevertheless, the king, from policy or from temperament, resolved to associate the whole nation in a great act of justice on a man of princely lineage. The sentence, which excited no horror at the time, was probably passed without a dissentient voice. David was sentenced, as a traitor, to be drawn slowly to the gallows; as a murderer, to be hanged; as one who had shed blood during Passion-tide, to be disembowelled after death; and, for plotting the king's death, his dismembered limbs were to be sent to Winchester, York, Northampton, and Bristol. Seldom has a shameful and violent death been better merited than by a double-dyed traitor like David, false by turns to his country and his king; nor could justice be better honoured, than by making the last penalty of rebellion fall upon the guilty prince, rather than on his followers. The form of punishment in itself was mitigated from the extreme penalty of the law, which prescribed burning for traitors.¹ Compared with the executions under the Tudors and Stuarts, or with the reprisals taken after Culloden, the single sentence of death carried out on David seems scarcely to challenge criticism. Yet it marks a decline from the almost bloodless policy of former kings. Since the times of William Rufus no English noble, except under John, had paid the penalty of rebellion with life. In particular, during the late reign, Faukes de Breauté

¹ "Igne concremantur qui salutem dominorum suorum insidiaverint." Bracton, f. 105.

and the adherents of Simon de Montfort had been spared by men flushed with victory and exasperated with a long strife. There were some circumstances to palliate David's treachery, if, as is probable, his charge against the English justiciary have any truth. We may well acquit Edward of that vilest infirmity of weak minds, which confounds strength with ferocity, and thinks that the foundations of law can be laid in blood. He probably viewed David's execution as a measure demanded by justice and statesmanship, and in which the whole nation was to be associated with its king. Never was court of justice more formally constituted; but it was a fatal precedent for himself, and the weaker, worse men who succeeded him. From that time, till within the last century, the axe of the executioner has never been absent from our history.

Edward was resolved to incorporate Wales with England. The children of Llewellyn and David were honourably and safely disposed of in monasteries, from which they never seem to have emerged.¹ The great Welsh lords who had joined the rebellion were punished with deprivation of all their lands.² Out of the conquered territory, Denbigh and Ruthyn seem to have been made into march lordships under powerful Englishmen.³ Anglesey and the land of Snowdon, Llewellyn's territories of Caernarvon and Merionethshire,⁴ with

¹ Brut y Tywysogion, p. 365. Brunne's Langtoft, p. 243. Compare Edward's letter to the prioress of Alvingham, Nov. 11, 1283, requesting her to receive "*aliquem vel aliquos de filiis, etc. ad ordinem et habitum domus vestræ.*" Dugdale's Monasticon, vi. p. 959. New Rymer, vol. i. part i. p. 712.

² Annales Cambriae, p. 107.

³ Denbigh under the earl of Lincoln, and Ruthyn under Reginald Gray. Lhoyd's History of Wales, p. 377.

⁴ The districts included in these three counties corresponded, or nearly so, to Llewellyn's territory at the time of the second rebellion. The

Flint, Cardigan, and Caermarthenshire, were kept in the hands of the crown. The Welsh division of commotes were retained, and several of these constituted a sheriffdom, which bore pretty much the same relation to an English shire that a territory bears to a state in the American Union. The new districts were also brought more completely under English law, than the marches, which retained their privileges and customs. The changes, where we can trace them, seem to have been for the better. The blood-feud was abolished; widows obtained a dower; bastards were no longer to inherit; and in default of heirs male in the direct line, daughters were allowed to inherit. On the other hand, fines were to be assessed according to local custom; compurgation was retained for unimportant cases, and inheritances were to remain divisible among all heirs male. The ordinance that contains these dispositions is no Parliamentary statute,¹ but seems to have been drawn up by the king in council (March 24, 1284). It was based on the report of a commission which examined one hundred and seventy-two witnesses.² Soon afterwards an inquest was ordered, to ascertain the losses sustained by the Church in Wales, with a view to giving it compensation. Nor did Edward neglect appeals to the national sentiment. The supposed body of Constantine was disinterred at Caernarvon, and received honourable burial

other districts are, however, included in the operation of the Statute of Wales.

¹ First Report on the Dignity of a Peer, p. 192. Mr. Parry, however, thinks there was a parliament.

² I insert this on the authority of a quotation in the *Greatest of the Plantagenets* (p. 137), for which, as

usual, no reference is given, but which is partially confirmed by Carte, ii. p. 196. The account is not in itself improbable, but it is a little curious, that the same man, the bishop of St. David's, should hold two inquests on the same subject within three years. Compare New Rymer, vol. i. part ii. p. 593.

in a church. The crown of Arthur and a piece of the **holy** cross, once the property of the Welsh princes, were **added** to the king's regalia. It was probably by design **that** queen Eleanor was confined at Caernarvon (April 25, 1284) of a prince whom the Welsh might claim as **a** countryman.¹ At last, having lingered for more than a **year** about the principality, Edward celebrated the **con-**summation of his conquests (Aug. 1, 1284) by a splendid **tournament** at Nefyn, to which nobles and knights **flocked** from every part of England, and even from Gascony. It was even more a demonstration of strength than a pageant.

The cost of the Welsh campaign must have been enormous, and it is difficult to understand how Edward met it. But no sort of expedient was spared. Commissioners were sent through England and Ireland to beg money of clergy and laity. Next, the cities of Guienne and Gascony were applied to; then, the money that had been collected for a crusade was taken out of the consecrated places where it was deposited.² The treasures put in the Welsh churches were freely confiscated. Nevertheless the parliament of Shrewsbury granted the king a thirtieth, from which, however, the loans previously advanced were deducted. In return for this the king passed the Statute of Merchants, which

¹ The common story that Edward presented the Welsh chiefs with his infant son as "a prince of Wales who could not speak a single word of English," has elicited very contradictory comments. Hume (ii. p. 67) calls it "a vulgar story which, as it suits exactly the capacity of the monkish writers, is carefully recorded by them." Rapin says (i. p. 361), "as far as can be found it is men-

tioned only by the modern chroniclers." I cannot discover it in any writer before Stowe.

² It is doubtful whether this was ever restored. The pope wrote strongly about it, but Edward's negotiations, in 1284, about a crusade look very much like an excuse for detaining church taxes. New Rymer, vol. i. part i. pp. 631, 642.

made provision for the registration of merchants' debts, their recovery by distraint, and the debtors' imprisonment. The clergy had at first been less compliant when the king applied to them for a tenth. The Convocation of the province of Canterbury (April, 1283) replied, that they were impoverished, that they still owed a fifteenth, and that they expected to be taxed again by the pope. They also reminded him bitterly of the Statute of Mortmain. Ultimately the matter was compromised by the grant of a twentieth (Nov. 1283).

For a few years Wales was still an insecure portion of the English dominion. In 1287, Rees ap Meredith, whose services to Edward had been largely rewarded with grants of land and a noble English wife, commenced levying war against the king's sheriff. His excuse was, that his baronial rights had been encroached upon; but as he had once before risked forfeiture by preferring a forcible entry to the execution of the king's writ which had been granted him,¹ we may probably assume that he claimed powers inconsistent with English sovereignty. After foiling the earl of Cornwall in a costly campaign, Rees, finding himself outlawed, fled, by the earl of Gloucester's complicity, into Ireland. Some years later he returned to resume his war with Robert de Tiptoft, but this time was taken prisoner, and executed at York by Edward's orders (1292). More dangerous by far was the insurrection of two years later (1294), when the Welsh, irritated by a tax,² and believing that Edward had sailed for France, rose up throughout the crown lands and slew one of the collectors, Roger de Pulesdon. Madoc, a kinsman of Llewellyn, was put forward as king, and his troops burned Caernarvon castle and in-

¹ New Rymer, vol. i. part ii. p. 634.

² Matt. West., p. 423.

flicted a severe defeat on the English forces sent to relieve Denbigh (Nov. 10). Edward now took the field in person, and resumed his old policy of cutting down the forests as he forced his way into the interior. The Welsh fought well, and between disease and fighting the English lost many hundred men. Once the king was surrounded at Conway, his provisions intercepted, and his road barred by a flood; but his men could not prevail on him to drink out of the one cask of wine that had been saved. "We will all share alike," he said, "and I, who have brought you into this strait, will have no advantage of you in food." The flood soon abated, and, reinforcements coming up, the Welsh were dispersed. Faithful to his policy of mercy, the king spared the people everywhere,¹ but hanged three of their captains who were taken prisoners.² Madoc lost heart, made submission, and was admitted to terms.³ Meanwhile, Morgan, another Welshman of princely blood, had headed a war in the marches against the earl of Gloucester, who was personally unpopular with his vassals. Two years before the earldom had been confiscated into the king's hands, and it is some evidence that Edward's rule was not oppressive, by comparison with that of his lords, that the marchmen now desired to be made vassals of the crown. Morgan is said to have been hunted down by his old confederate, Madoc, but it seems more probable that he was the first to sue for peace.⁴ He was pardoned without reserve. As there

¹ *Annal. de Dunstapliâ*, p. 386. Cotton observes (p. 253), that the earl of Gloucester gave no quarter, and even slew monks.

² Conan, the chief, is called "a notorious robber" by Matthew of Westminster. The expression may

only denote English hostility, but is not used of Madoc, Morgan, or Maelgoun, the other chiefs.

³ *Annal. de Dunstapliâ*, p. 387. Bart. Cotton, p. 282.

⁴ *Lloyd's History of Wales*, p. 382. Matt. West., p. 423.

was then war with Scotland, hostages were taken from the Welsh chiefs, and were kept in English castles for several years. But the last lesson had proved effectual. The Welsh settled down peaceably on their lands, and gradually adopted the English customs. Except a few great lords, their gentry were still the representatives of their old families. Only five men in all had received the last punishment of the law for sanguinary rebellions, extending over eighteen years of the king's reign. Of any massacre of the bards, or any measures taken to repress them, history knows nothing.¹ Never was conquest more merciful than Edward's; and the fault lies with his officers, not with the king, if many years still passed, before the old quarrel between Wales and England was obliterated from the hearts of the conquered people.

¹ The story of the massacre of the bards is derived by Hume and Carte from Sir J. Wynne's History of the Gwedir family, (Barrington's Miscellanies, p. 386). It is a mere legend, without the smallest confirmation from authentic history. Sir J. Wynne adds that Edward's example

was "followed by the governors of Wales until Henry the Fourth's time;" but he gives no authority for his statement, and appears to have deduced it from the fact that he could find no songs, addressed to his ancestors, of earlier date than the reign of Henry V.

CHAPTER XI.

EDWARD'S PEACE.

THE SECOND STATUTE OF WESTMINSTER. CONDITIONAL GIFTS. QUESTIONS OF DISTRAINT AND COMMONAGE. ATTEMPT TO GIVE CITIZENSHIP TO THE IRISH. ITS FAILURE. EDWARD'S VISIT TO THE CONTINENT. HIS RETURN. TRIAL AND PUNISHMENT OF THE JUDGES. EXPULSION OF THE JEWS. PRIVATE WAR. COMMISSION OF TRAIL-BASTON. DEATH OF QUEEN ELEANOR.

WITH the subjugation of Wales the king was set at liberty to resume the work of legislation. The second Statute of Westminster (March, 1285) was probably the work of a great council in which only the lords spiritual and temporal, and a few judges or other officials, sat. Its chief provisions accordingly bear the impress of an oligarchical character, or tend to consolidate the organization of government. Hitherto the practice of English law had assumed that the real ownership of land, subject, it is true, to numerous limitations, was in the tenant or feoffee, rather than in the lord. A large class of vassals had been able, at the time of the Conquest, to transfer the service of their land from one lord to another. It had been the object of much previous legislation, to limit this power of alienation from the superior. But the principle still prevailed that where land had been granted to a man and the heirs of his body, the donee might enfeoff others with the con-

ditional grant to himself, so that either his heirs afterwards were defrauded, or, if he died without issue, the donor was barred of his reversion. Nothing can show more strongly the practical independence of our ancient gentry and yeomen, than that deeds of gift so worded should have been interpreted in such a spirit. By a most unfortunate change it was now decreed, that the vassal should only have a life interest in his fee, which, if issue failed him, was to revert to the donor.¹ To quote a modern analogy, the feoffee was thus deprived of a saleable tenant-right, and care was taken that the provision should not be eluded by a fine barring the heir in tail. In a similar spirit it was provided, that land given to a woman for her marriage, failing heirs of her body, should no longer go by "the law of England" to her husband. It was in future to revert to the original donor. But it is easier to make laws, than to enforce them against interest and old custom. Land was still freely aliened as before, and, when the crown claimed the reversions due to it from its own vassals, so much odium was excited, that, during Edward III.'s minority, a statute² was passed legalizing the custom on payment of a reasonable fine. But the benefits of

¹ Reeves observes, that by this statute a fee conditional was changed into a fee tail, so that a man purchasing for himself and wife and their lawful issue, had nothing but a freehold for their lives, and the fee for their issue. *History of English Law*, ii. p. 166. A curious attempt was made in James the I.'s reign to bring the dignity of an earldom under this statute as a teneement; and the judges are said by Sir Edward Coke to have decided

that where a name of dignity concerned land it might be entailed within the act, although in the case before them the dignity was held to have been forfeited by an attainer. There seems reason, however, for doubting the soundness of this argument, as the statute could hardly be meant to apply to a dignity that could not be aliened. *Third Report on the Dignity of a Peer*, pp. 40-44.

² 1 Edward III. st. 2, c. 12.

this act were confined to those who held immediately of the crown.

Other minor enactments of the second statute of Westminster show the same oligarchical spirit. The tenant replevying cattle in cases of distress was to give security for their value. The old rule of common law, by which no defendant might remove a suit into the superior courts, was abrogated in favour of lords whose tenants sued them for an illegal distress. The power of enclosing commons, which the Parliament of Merton had affirmed in favour of lords against their tenants, was now extended in favour of lords against their neighbours. There were plausible reasons for all of these changes. It was unjust that the tenant should elude his lord's distress by a forced or fictitious sale. It was fair that cases, where tenure was disclaimed, should be tried before the justiciaries, since in such cases the local courts were not able to inflict penalties. Obviously, too, the lord was entitled to a higher right of enclosing commonage against strangers, than against his own tenants. But all these enactments testify to a changed spirit in our courts. With the symmetry of Roman law, its literal constructions and arbitrary tendencies were creeping in.

The king took care for the better ordering of justice. By the statute, commonly called of "Nisi Prius," provision was made for more regular assizes three times a year, so that the uncertainties of former times might be avoided. A provision that sheriffs imprisoning men for felony, except by lawful inquest of jury, should be liable to an action for false imprisonment, was designed to strike at a flagrant abuse which had grown up with the increase of royal officials. In fact, the provisions in our laws against sheriffs and other *employés* were as

numerous as against any class of malefactors. The Statute of Winchester in the autumn of this year (October 8) did for the police of the country what the Statute of Westminster tried to do for its judicature. The district was made answerable for all felonies within its limits. The roads between market towns were to be cleared of wood two hundred feet, or a bow-shot, on either side, to prevent robbers lurking in them. The towns were to maintain the frank-pledge system, by which every man in the suburbs was made responsible for his lodgers, and all strangers, going about at night, might be arrested on suspicion. The regulation what arms each man was to keep, is curious evidence of the difference between mediæval and modern times. Then every man was bound to be ready for service in the hue and cry or the army. In fact, the Statute of Westminster had lately directed, that sheriffs were to call out the county in arms, if any powerful man resisted the king's precept. Now, the general possession of arms is apt to be regarded as the sign of disorderly times.

The preamble to the second Statute of Westminster contains a remarkable passage, implying that the legislation of England was designed also to comprehend "the people of Ireland."¹ Unhappily, the words used are such as might apply to the English settlers only, or to those and the privileged Irish clans, or to the population generally, of whatever lineage. Perhaps the second supposition is the most probable. Both John

¹ Commonly, "*Hibernicus*" is Irish in opposition to English, as in pleadings. "*A non tenetur ei inde respondere eo quod est Hibernicus. B dicit quod Anglicus est.*" But a writ of John's to the justiciary of Ireland, "*et omnibus aliis baronibus*

et fidelibus suis Hibernicis" (as the contraction *Hibñ.* must probably be read), seems to prove that the word might be used so as to include the "*Anglici de Terrâ Hiberniæ.*" Patent Rolls, p. 80.

and Henry III. had declared, that Ireland was to have the same laws and customs as England, and the same forms of writ. Magna Charta was formally extended to Ireland. Yet, in fact, to kill a mere Irishman in time of peace was often adjudged no felony, and an Irishman could not recover at common law against an Englishman.¹ It is true he was punishable as a felon at English law.² These iniquities, very different from the tenour of Edward's legislation for Wales, are partly explained by the imperfect conquest of Ireland, where powerful chiefs barely acknowledged the suzerainty of the king of England, and where the people in remoter parts still clung to the Brehon laws. But, in the neighbourhood of the English pale, many natives were anxious to share the benefits of a more civilized legislation, and two petitions on the subject were addressed to Edward from the Irishry.³ The king and council were very willing to assent, and only desired to sell their franchises for a high sum of money⁴ and a large quota of troops. The Irish justiciary was first entrusted with the negotiation (1277). Three years later, Edward directed that a parliament of the English settlers⁵ should be convened, to decide whether the concession could be made without prejudice to their own interests. It seems certain that the business miscarried through

¹ Davies, *Historical Tracts*, pp. 80-83.

² "*Latrones Hibernici et receptatores eorum deducantur secundum legem Anglorum.*" *Patent Rolls*, p. 80.

³ One in 1277 (*New Rymer*, vol. i. part i. p. 540), and one seemingly in 1280. *Prynne's Records*, iv. p. 257.

⁴ The Irish had offered to fine in eight thousand marks.

⁵ It is noticeable that the writ is addressed generally to the archbishops, &c, earls, &c, knights, and all Englishmen of the land of Ireland, bidding them come together on certain days which they shall appoint. No directions are given for the election of representatives by the sheriffs. This looks as if an assembly of some kind were then sitting, or as if such conventions were not unusual.

some jealousy or mismanagement, and the Welsh wars soon afterwards engrossed Edward's energy. Now that peace was restored, he ordered all the laws that had been passed in his reign to be sent over and proclaimed in Ireland.¹ For the Irishry he did what he could by granting numerous charters of admission to English law, in which ultimately five whole clans were comprised.² Royal grace thus repaired to a certain extent the injustice of a privileged community. The misfortune was, that where the favoured status was exceptional, it generally lay with the Irishman to prove his privilege, and, as late as two centuries afterwards, we find the chief of an enfranchised clan applying to Parliament for re-enactment of his citizenship.

In the spring of 1286, Edward felt himself at liberty to visit France (May 13). His presence there was required to do homage to the new king, Philip IV., for the English possessions. But as the treaties of Henry III. had never been thoroughly carried out, the homage was rendered conditionally, "according to the form of the peace that was made between our ancestors." Philip was a very young man, and proved ready to negotiate. He promised that Edward, as long as he lived, should never be subject to forfeitures for any appeals against him from his Gascon vassals. After-

¹ An entry on the Close Rolls quoted by Prynne (Records, iv. p. 258), records that the first and second Statutes of Westminster, the Statute of Gloucester, and the Statute of Merchants were given at Winchester on Wednesday, Sept. 14, to Roger Bretun, clerk of the justiciary of Ireland. At that time, it will be observed, the Statute of Winchester had not been passed.

² Prynne mentions as many as ten to different individuals, and Sir John Davies (p. 84) shows that the "Five Bloods," as they were called, were enfranchised at least as early as the third of Edward II. They were, O'Neil of Ulster, O'Molaghlín of Meath, O'Connor of Connaught, O'Brien of Thomond, and M'Morogh of Leinster.

wards, it was agreed to give up the districts in Sain-tonge that had been withheld, and to make compensation for the king's claims upon Querci. Satisfied on these points, Edward still lingered on the Continent, to make peace between his nephew Alfonso of Arragon and his cousin Charles of Anjou, who disputed the throne of Sicily. It was really a quarrel between France, not yet consolidated, and Spain, still dismembered, for the command of the Mediterranean, and the partisans of the house of Anjou would have had no footing in Sicily after the Sicilian Vespers (March 30, 1282) if the French fleet had not kept the sea for them. Edward had already declined to preside over a great tournament, in which the fathers of the present claimants, with a hundred knights on each side, were to do battle for their rights. In a private letter he had explained his reasons—a dread of the great damage that would be wrought to Christendom if such a combat took place, and a feeling that he could not preside in court over a scene of so great cruelty. He now vindicated the sincerity of his language by staying three years on the Continent, occupied with fruitless negotiations between thoroughly dishonest sovereigns. In fact, the French king was aspiring to conquer Arragon for himself, as well as Sicily for his cousin. Edward succeeded so far as to patch up a hollow peace, and procure the liberation of Charles of Anjou, who had been taken prisoner. But, as soon as he was set free, he violated all terms, and, later on, conceived an inveterate hatred for the mediator. The English nobles murmured at their king's absence, and refused to give a supply till they should see him back (Feb. 1288). The king seems to have enjoyed residence abroad, or the honourable post of umpire, and tried for a time to

support himself by extraordinary tallages on the cities and crown lands. At last, after more than three years' absence, he returned (August 12, 1289).

Edward's presence was urgently demanded. Before leaving England he had established a strong government, but he had not been able to wean his subjects from the disorderly practices which Henry's misrule and a civil war had engendered, or to give his judges integrity when he made them powerful. An incident of the previous year showed how thoroughly the very gentry were demoralized. A number of gentlemen resolved to plunder the great fair of Boston. They proclaimed a mock tournament of monks against canons, as an excuse for coming in armour; and one evening set fire to the booths in several places. The merchants, who hurried off with their goods, were stopped, robbed, and perhaps murdered, while the confederates escaped in ships which they had prepared. Robert Chamberleyn, the head of the gang, was convicted on discovery of a part of the spoil in his house, and was hanged, wailing and imploring mercy of the merchants who stood round. But he would not denounce his partners in guilt, and they escaped punishment altogether.

Enquiry into disorders like this awakened suspicions that the judges were false to their trust, and took bribes to screen wealthy offenders. The king, by public proclamation, ordered all who were aggrieved to attend at Westminster, and lay their complaints before the king in parliament, (Jan. 30, 1290). A judicial committee sat, aided by the chancellor, to examine the charges brought, and a jury was empanelled as in ordinary procedure. Among the first sufferers was the chief justiciary, Thomas de Weyland, who had risen to his high office in the state from the position of a cadet of good

family, and, in the haste to become rich, had forgotten justice and honour. The worst charge against him is variously stated; one account saying, that he had instigated a murder, and another, perhaps the more probable, that he gave sanctuary in his house to a servant guilty of murder, and allowed him to escape punishment altogether.¹ By some negligence of his gaolers, Weyland escaped from prison, fled to St. Edmund's, and was admitted by the Franciscans to their brotherhood. The admission was grossly uncanonical, for the justiciary was a married man, who was neither separated from his wife, nor had made a vow of chastity. Edward angrily reprimanded the prior, disallowed the privilege, and starved the fugitive into a surrender. Churchmen noted with satisfaction that Weyland suffered by a rule he had introduced or enforced, that a fugitive might be denied food after forty days sanctuary.² The justiciary resumed the dress of a layman, threw himself on the king's mercy, and being allowed to choose between judgment by his peers, prison for life, or banishment with confiscation of his goods, elected in favour of the third alternative. His sentence was carried out with all formality. Adam de Stratton, one of the exchequer barons,³ was also convicted of homicides,

¹ Wikes (Gale, ii. p. 119) gives the lighter charge, the Annals of Dunstaple (p. 355) the graver. I can hardly imagine that a judge guilty of suborning murder would have been allowed to escape with his life. It is noteworthy that Wikes speaks of him as a knight; the Annals of Dunstaple, as having been subdeacon.

² The passage of Bracton (f. 136), to which I have alluded above (p.

155, note 1), seems to show that, while Bracton himself was in favour of only one day's sanctuary, others allowed a term of forty days, and strong churchmen would have permitted perpetual residence. Weyland apparently deserves the credit of having reduced this intolerable abuse within limits.

³ As this title is given him by the Annals of Dunstaple (p. 357), and by the Chronicles of Rishanger (p.

witchcrafts, and treacheries. He had once before fined to escape punishment for adulterating the coin, an offence for which, as weigher of the exchequer, he must have had special facilities. The injudicious lenity of his first sentence was now compensated by total disherison, and the king derived more than 30,000 marks in money alone from the escheated property.¹ Ten other judges, or high officials, were permitted to compound by fines, more or less onerous, for offences varying from actual corruption to mere irregularities in the administration of justice. Ralf de Hengham, chief justice of the King's Bench, was punished, it is said, for no heavier offence than reducing a fine by rasure on the roll in favour of a poor man. He was afterwards restored to

420), I venture to retain it in spite of Mr. Foss's doubts. Judges of England, iii. p. 161.

¹ Mr. Foss (l. c.) thinks that the fine was only 500 marks; if so, Edward would be quite purged of fining for love of gain rather than of justice. But his authority is a petition from Walter de Stratton, showing that his uncle had made composition for 500 marks, and praying that certain manors, seized into the king's hand, may be restored. Rot. Parl., ii. p. 42. This, I think, is not positive presumption that Adam de Stratton's personalty, once confiscated, was restored to him. Wikes and the Annals of Dunstaple both speak of it as confiscated; he is entered in official returns as late as 1305 as disinherited for felony (Calend. Geneal., p. 693), and the petition itself says, that his friends fined to get him out of prison and exempted from further prosecutions. His petition a year before, that he might receive back his personalty, which he himself values

at £26,000, had been peremptorily refused. Rot. Parl., i. p. 57. The real gist of Walter de Stratton's petition seems to be, that, after his uncle was allowed to fine, that part of his manors, which was not derived from the crown, ought to have been restored to him. There is no doubt a difficulty about the expressions, that Adam de Stratton is to quit the king of all moneys seized before his imprisonment, and is to receive back all those seized on occasion of his imprisonment. But, perhaps, the best explanation is, that he was to get back the rents of the manors given him by his patroness, the countess of Albemarle, which are those demanded by his nephew. Again, if Adam de Stratton was to receive back more than 30,000 marks, why do his friends bind themselves to pay 500 marks for him within two years? Surely the presumption is that the sums coming to him were very small.

office and placed at the head of the Common Pleas. Only two judges in all are said to have come scatheless out of the inquiry; and, as it extended to forest justiciaries, sheriffs, and crown officials of every kind, the disorders discovered among all classes attested a general depravation. The fines that flowed into the exchequer were so abundant a source of revenue, that Edward has been suspected, in later times, of promoting the inquiry as a source of profit. Such a policy would have been suicidal and absurd. No one was more interested than the king in supporting the judges and officials who collected his taxes and rents, and whose plunder was rather from the people than from the crown. Solomon of Rochester, one of the judges whom he never pardoned, had served in the "Quo warranto" commission, and, as the object of special odium, was entitled to special support. Richard de Byland added to this claim, that he had been commissioner of the government during the king's absence. A weak sovereign would have supported authority, and even a well-intentioned prince might have shrunk from the terrible scandal of passing judgment on the men he had most trusted. It would have been easy to replace them gradually and noiselessly. The king preferred to make no compromise with corruption.

There were other sufferers that year in England besides the officers of the crown. The Jews were still numerous enough in the towns and villages to excite jealousy, and it was said that, in defiance of law, they still plied their old trade of usury. As they were a branch of crown revenue, it lay with the king to decide their fate, and Edward on this point had the feelings of a crusader. A royal proclamation (June 24 to July 8) gave them the choice, of quitting the kingdom within four months, or becoming Christians; death would be

the penalty of delay or contumacy. With a certain righteousness of purpose, which never forsook him even where he was most wrong, the king allowed the exiles to carry away all their property,¹ and issued orders for expediting their passage across the channel. The poor were to be taken at moderate fares, and the sheriffs were to see that no one was plundered. But the people murmured at the extravagant grace which allowed so much crown treasure, as the Jews' property was considered, to pass from the kingdom. One man left his passengers, who were wealthy merchants, upon a sand-bank, and told them to call on their prophet Moses, who had brought their fathers out of the Red Sea. It is said that this miscreant boasted of his villainy at court, and was roughly undeceived, by being put on trial and hanged with his accomplices.² Similar justice overtook others who robbed their passengers at sea and threw them overboard. Some of the exiles, it is said, were wrecked by "God's providence" on the French coast, and died miserably. The wretched survivors of more than 16,000 fugitives for conscience sake were allowed by Philip IV. to settle at Amiens. The concession drew down a sharp reprimand from the pope. There is no trace of pity for the victims in any contemporary chronicle; the king was held to have used sound counsel, in expelling the enemies of Christ from England, as he had before done from Aquitaine. Only when he

¹ Debts that they could not recover went to the crown. Coke's Institutes, p. 508. This would be in their favour, as most men would sooner compound with the Jews than pay in full to the exchequer.

² Hemingburgh (ii. p. 22) says, "he obtained favour and reward."

The wish was father to the thought in this instance. Wikes (Gale, ii. p. 122) and the Annals of Dunstable (p. 362), agree that the criminals guilty of these practices were hanged, and Sir E. Coke quotes a MS. record of the Justices Itinerant in Kent to the same effect.

demanded and obtained the grant of a fifteenth throughout the kingdom, as compensation for the loss his revenues had sustained, a portion of his clergy complained bitterly, that catholics should be punished in place of the enemies of the cross of Christ. He would certainly have been more popular, if he had left the Jews nothing but their clothes and lives.

Neither legislation nor police, nor the presence of Edward himself in England, could impose absolute quiet on an unruly land. In 1292 a complaint came before the king in Parliament, that his son-in-law, the earl of Gloucester, had levied open war in the district of Brecknock against the earl of Hereford, who had married Maud de Fienles a kinswoman of the queen. Both parties were more or less guilty, and it is evident that they presumed on their high connections and on the supposed usage of private war in the marches. It aggravated their offence, that they had been ordered in Parliament two years before to refrain from all hostilities; and the earl of Gloucester particularly incensed the king, by objecting to the summary process of a writ calling him to account before an inquest had been held. The excuse of border privileges for disorder was summarily quashed; both earls were imprisoned, and their lands were declared forfeit for life. It is probable that so strong a sentence against the two first subjects in the realm could not have been carried out safely, and was only intended as an assertion of royal authority. Before long the two earls were allowed to fine, Gloucester in ten thousand marks, and Hereford in one thousand, and were then restored to their honours and estates.¹ But

¹ Rot. Parl., i. pp. 18-77. Dugdale says, but I think erroneously, that the fine was one thousand marks apiece. Baronsage, i. p. 215.

the example of condign punishment in the highest place was soon forgotten by a generation, which was partly demoralized by frequent wars, and partly by an intricate legality. If an earl of Gloucester or Arundel¹ was precluded from private war, he, and meaner men, would find other means of carrying on an armed quarrel. Towards the end of Edward's reign, the country was infested with numerous bands of swash-bucklers, or "trail-bâtons," as they were called, who were protected by the county gentry in consideration of their services in making forcible entries or avenging private feuds, while they maintained themselves by every species of plunder.² From firing houses at night to picking quarrels in the streets, and demanding damages from their victims, nothing was too desperate or too petty for these ruffians. Edward and his Parliament applied a sharp remedy in the form of special commissions, that traversed the country, inquiring, imprisoning, fining, and even hanging, summarily. A rhymed chronicle and a popular song³ give the two sides of the controversy. The former represents the "well-meaning men" who had

¹ In 29 Edward I. a precept was issued from the king to the earl of Arundel, directing him to forbear making private war upon Fulk Fitz-Warine, in Shropshire, under penalty of forfeiting all that he holds in chief of the king. Dugdale, Baronage, i. p. 315.

² See the articles of inquest in Hemmingburgh, ii. pp. 237-240, "concerning those who forcibly and wrongfully against the peace of our lord the king have entered into other men's lands, and when they cannot maintain their wrong and force against those who are by law

against them, pledge and deposit the lands and tenements they have usurped in the hands of great lords, &c. . . . concerning those who covet the lands of their poor neighbours. . . concerning those who in market-towns or in any other county town run up against the townsmen and shoulder them to make a quarrel, and then wish to threaten those whom they have assailed or injured in life and limb till they make agreement or fine with them at their pleasure, in money, or chattels, or wine, &c."

³ Wright's Political Songs, pp. 231-236, 319-321.

been forced to pay black-mail to the plunderers, and who would not dare to live in their houses "if punishment were not made of ribalds and brigands." The other is the complaint of an old soldier who has served the king in Flanders, Scotland, and Gascony. So sharp is the law now that he dares not cuff his lad for fear of a summons. If the judges continue as they began, many will take to the green-wood for fear, and "he will become a robber who never was one before." If a man know more law than his neighbours, he is taxed with conspiracy. The ballad is the indignant utterance of a peaceable man, who was "never willingly a homicide," though he would like to teach two of the judges the game of "trail-baston," and "break their back-bones," and "cut out their tongues." The spirit of the whole poem gives ample evidence that, even if the commission was a little rigorous, it had to deal with actual and crying abuses.

Among the great misfortunes of Edward's life, we must place the loss of his queen, Eleanor, who had followed his fortunes with unvarying devotion, and had contributed largely to win the hearts of his people. It was her singular merit for those times, that she made herself one of the nation among whom her fortunes were cast, fostering no aliens at court, lending herself to all complaints of wrong-doing or misery,¹ and administering the ample manors with which her husband had endowed her, so that no man was oppressed by her officers. The praise of being slow to shed blood, which Edward may claim above all kings during the first part of his

¹ "If the least complaint of oppression came anyhow to her ears." *Chronica Rishanger*, p. 121. Compare an interesting account in the

Gesta Abbatum Mon. S. Alb., pp. 411-413, of the townspeople besetting her on a visit to complain of the oppressions of the abbey.

reign, leaves him gradually from that time forward, as if a restraining influence had been removed which perpetually appealed from the king's anger to his generosity. Eleanor's disease seems to have been in the nature of a decline. The body was brought by slow stages from Hardley, in Lincolnshire, where she died (Nov. 28, 1290), to the burial-place of kings in Westminster, and a stately cross at every town where it halted attested her husband's remembrance of his irreparable loss. "We loved her tenderly in her life-time; we do not cease to love her in death," said the king, when he asked the abbot of Clugny to intercede with prayers and works of charity for the departed lady's soul. But the strong man's unutterable grief found no response in any kindly sympathies of the first churchman of the realm. The primate was then occupied in a degrading squabble with the abbot of Westminster, whom he had excommunicated, and the funeral obsequies of the dead had to be celebrated by the bishop of Lincoln.¹

¹ Wikes, Gale, ii. p. 121.

CHAPTER XII.

THE SCOTCH SUCCESSION.

QUESTION OF SCOTCH HOMAGE. POLICY OF SAXON AND EARLY NORMAN KINGS. LATER RELATIONS OF THE TWO KINGDOMS. DIFFERENT KINDS OF VASSALAGE. RECOGNIZED RIGHTS OF SCOTCH ROYALTY AND UNCERTAIN CLAIMS OF THE ENGLISH CROWN. INTERREGNUM IN SCOTLAND. TREATY OF BRIGHAM. DEATH OF THE FAIR MAID OF NORWAY. DISPUTED SUCCESSION. EDWARD'S INTERFERENCE. CONFERENCE AT NORHAM. RECOGNITION OF EDWARD'S SUZEREAINTY. PROGRESS OF THE PLEADINGS AND DECISION IN FAVOUR OF BALLIOL. BALLIOL'S HOMAGE. NEW RELATION OF THE TWO CROWNS AND ANNULMENT OF THE TREATY OF BRIGHAM. KING JOHN CITED TO THE ENGLISH COURT.

THE pageant of Edward's coronation had been troubled by a refusal from the king of Scotland to perform homage, as unreservedly as the English lawyers desired. During the first years of his reign Edward was too weak to assert his supremacy. But, with the successful issue of the first campaign against Wales, Alexander III. became alarmed for the safety of his English fiefs, and made overtures to perform unconditional homage.¹ When, however, the peers assembled to witness the ceremony in parliament at West-

¹ "Our dear and faithful brother, the illustrious king of Scotland, has offered us his homage due to us without any condition." New Rymer, vol. i. part i. p. 554. As this occurs

in a letter from the king to his chancellor, it may fairly be supposed that Edward understood these promises to be held out by the Scotch envoys.

minster, it appeared that all difficulties were not yet voided. Alexander insisted on reserving his kingdom of Scotland from the homage he tendered. A compromise was adopted, by which the Scotch king declared vaguely, that he became Edward's liegeman against all nations; while the question of English and Scotch claims to the northern sovereignty was reserved for future discussion.¹ Robert Bruce, as Alexander's deputy, then took the oath of fealty for all lands and tenements which his master held of the English king. As these were not recited, the whole question of Edward's sovereignty was left absolutely in abeyance, though his dignity as feudal superior was saved. No Scotchman disputed that Alexander owed service to Edward for certain English fiefs, such as Tynedale and Penrith, just as Edward owed service to the crown of France for Guienne. The real question at issue was, whether or not Scotland,

¹ Such is the statement of an entry in the English Close Rolls, which, however, has been called in question, because there are traces of erasure in it, and because the date which it gives of Michaelmas is inconsistent with the real date, October 28. The latter objection would invalidate several unsuspicious documents (see p. 174, note 1, and p. 258, note 3, for cases of dubious date). It is highly probable that the entry was made some time after the act of homage, and by some clerk who copied loose or slovenly memoranda and made mistakes; but an error in date is precisely one that a forger would have been careful to avoid. I see myself no material difference between the Scotch and English accounts, except that they are from different sides of the same question. The Dunfermlyn Register says (No.

321), that Alexander tendered homage for his lands held of the English crown with reservation of his kingdom, and that the bishop of Norwich instantly reserved the English claim to homage for the kingdom of Scotland. The entry in the Close Rolls says, that Alexander's homage was received with reservation of the English claim to homage for the realm of Scotland, this claim being reserved for future discussion. Both therefore agree that Alexander's homage was not full, that it was accepted as far as it went, and that the English claims were reserved. Neither party was interested in pushing the matter to a quarrel. For an excellent statement of the controversy, leaning, however, to the Scotch side, see Robertson's *Scotland under her Early Kings*, ii. pp. 423-425.

as a principality, was a fief of the English crown, liable, under certain circumstances, to be forfeited or to escheat to its superior.

There were good reasons why English lawyers should regard the kings of Scotland as vassals of an English suzerain. The old condition of the lowlands, as part of a Roman province, had been so far maintained through Anglo-Saxon history, that a kingdom of Berenicia and, afterwards, a province of Northumbria beyond Tyne, had remained down to a late period incorporate with the southern part of Britain. A series of events favoured the Scotch and Pictish tribes in gaining ground upon their old invaders and conquerors. The civil wars of the Northumbrian kings; the havoc wrought by the Danes; the transference of power in England to a Saxon line governing from Winchester, and afterwards to Normans with even less hold upon the north country; all these causes facilitated the absorption of the Lothians into a Scotch sovereignty. Yet it was not consummated till the eleventh century (1018), and the conquered people were allowed to retain their English laws.¹ The policy of Edmund, who invested Malcolm I. with Cumberland, that a worthless province might become a serviceable fief, was copied two centuries later by Stephen, who invested David I. with Northumberland. The natural ambition of the Scotch kings was to extend their limits to the Humber, and they cared little for a vassalage which

¹ Simeon of Durham, (Twysden, c. 81), is the authority for the cession of Lothian in consequence of the battle of Carham; and Wallingford, (Gale, ii. p. 545), for the maintenance of their old laws and franchises to its inhabitants. It is not impossible that homage for it to the English crown

was stipulated at the time, and that Matthew Paris was right in enumerating this among the lands for which service was due. Hist. Major, p. 829. That one party should wish to evade, and another to extend, this obligation was natural.

was nominal in the services rendered, while it was paid with wealthy provinces. On the other hand, our Norman sovereigns and the Plantagenets were more interested in France than in their own sovereignty. They must have known the traditions of English supremacy; of the Scotch accepting Edward the elder as overlord;¹ of Athelstane crushing the Scotch power at Brunan-beorh; of Edred, Edgar, and Canute receiving acknowledgments of suzerainty; and of Siward, the Northumbrian ealdorman, shattering Macbeth's power by a great battle, to promote the interests of a prince favoured by England. But both the Conqueror and Rufus had derived little profit from their Scotch campaigns, beyond peace on the borders, and some vague recognitions of a higher sovereignty attached to the English crown. Once, indeed, William Rufus claimed, it would seem in mere wantonness, that the Scotch king should submit to trial by the English peers. The claim was indignantly refused, and William himself took no trouble to enforce it. But he twice afterwards took advantage of civil wars to place a candidate on the throne, who agreed to do fealty and homage² for the conquered kingdom. The grievance of those times in Scotland was the influx of Norman and Saxon settlers, and so long as these were not favoured by their king, the people cared little for his international position.

The capture of William the Lion, during a war of wanton aggression against Henry II., completely changed

¹ "And him chose then to father and to lord the Scotch king and all the Scotch people." *Saxon Chronicle*, A. 924.

² 1093. "Which, when Duncan, son of king Malcolm, heard of, he asked and obtained of king William,

whom he then served, that he should grant him the kingdom of his father, and he swore fealty to him," &c. *Sim. Dunelm.*, cc. 219, 223. *Flor. Wig.*, ii. pp. 32, 41. *Saxon Chronicle*, A 1093, A 1097.

the relations of the two countries. Not only was the Scotch king deprived most deservedly of his English fiefs, but he was forced to purchase his liberty by agreeing, for himself and his heirs, to hold the crown of Scotland of Henry and his heirs. The prelates and great lords of Scotland were to do fealty and homage to the king of England. Fugitives from either country were to be given up to the other. The treaty was no mere paper document; for, some seven years later, when William expelled an obnoxious bishop from his dominions, he was summoned, at the prelate's complaint, to his lord's court in Normandy, and thought it safest to comply. At the accession of Richard, the Scotch king attended and did homage. But he had strong claims on the new monarch, who had been his old confederate in the disastrous war against Henry, and Richard, needing money for his crusade, was ready to sell his kingdom for an immediate supply. Perhaps it was thought politic to conciliate one who would be an unsafe neighbour to a regency. For the sum of ten thousand marks William purchased a charter, annulling all the treaty with Henry II., and replacing him in the rights and duties of his brother Malcolm. John recognized his brother's engagements by admitting William to homage, with reservation of his rights. But a few years later (1210) John, stimulated by disaffection at home, and the formal curse of the Church, marched north with an efficient army, and constrained the king of Scotland, then aged and infirm, to give up his daughters, as royal wards, to be married by the English king, and to give hostages from the chief families of the nobility. The treaty was naturally disliked, and the Scotch sided with the barons in the civil war, and were held accordingly to heavy ransom by

Pandulph. But it was renewed in the next reign under mediation of the papal legate, and its consequences were on the whole good.¹ Fostered by intermarriages, the relations of the English and Scotch courts became increasingly intimate; and though a question of the extent of homage was raised in 1252, when Alexander III. was married to the princess Margaret, the Scotch king, who was a mere boy, prudently evaded an awkward discussion, by observing, in words that were no doubt put into his mouth, that he had come for a bride and not for a conference. The increasing number of English nobles who held lands in both countries, and the strong repugnance of all soldiers to serve under a general of such signal incompetence as Henry III., contributed to the preservation of peace during that sovereign's reign, and Scotch troops even fought in the royal army at Lewes, though their king, in sending them, obtained an acknowledgment that they were granted not of right, but of special favour.²

Reviewing all these transactions, it is evident that the precise nature of the relations of Scotch to English royalty, except in the case of kings imposed by Rufus, had never been formally settled till William the Lion's captivity, and became indeterminate again after Richard's annulment of the charter of submission. In fact, the relations of lord and vassal admitted of infinite variety, according to the dignity of the contracting parties. An earl palatine, for instance, as of Chester, was said to

¹ Palgrave's Documents and Records, i. p. 74. New Rymer, vol. i. part i. p. 157. In this treaty Henry is called Alexander's "dearest and liege lord," and Alexander promises not to make alliance with Henry's

enemies. The prelates and nobles of Scotland are to promote the execution of this covenant.

² New Rymer, vol. i. part ii. p. 907.

have royal power in everything saving the suzerainty of the lord king as prince,¹ and such a noble might bring to justice, or pardon, without infringement on the regalia. A sovereign prince undoubtedly stood in a still higher position, even though he were under a suzerain. He might use the royal style, without mention of his suzerain, as Edward actually did in Gascony.² He might conquer territory for himself, provided he did not wage war directly or indirectly against his lord.³ In the case of the king of Scotland, he had a right never contested, though Henry II. obtained its temporary surrender, to harbour felons and exiles from the realm of England.⁴ He was not summoned to the king's council, or bound to do service in the king's campaigns, or, except for his English fiefs, a contributory to the taxation of England.⁵ The surrender by

¹ Bracton, f. 123. Ryley's Pleadings, p. 169. It is noticeable that the king of Scotland held Tynedale as a regality, exercising therein all the rights of a sovereign. Palgrave's Documents and Records, i. p. 111. Had the connection with Normandy lasted, and the strength of England been diverted towards the continent, Tynedale might easily have been absorbed into Scotland.

² His charters there ran, "regnante Edwardo Rege Angliæ," and when the king of France objected, in 1282, to this style, the English agent showed that the counts of Toulouse had employed the same formula. New Rymer, vol. i. part ii. p. 602.

³ I have noticed an apparent, but, I think, not a real instance of the same power in certain charters given to lords of the Welsh marches, p. 314, note 1. Anyhow, if it had been inherent in their dignity, it would not

have been made matter of special concession.

⁴ Thus Llewellyn ap Jorwerth says to Henry III., "We are not of less privilege than the king of Scotland, who receives outlaws from England, and with impunity." Royal Letters, i. p. 229. Edward I., in 1279, acknowledged the existence of this custom. New Rymer, vol. i. part ii. p. 566.

⁵ Unless the two thousand marks which William the Lion paid towards Richard's release were assessed on Scotland, as well as on his English fiefs, for which they certainly seem an inordinate contribution. Chronica de Mailros, Gale, i. p. 179. It is not impossible, however, that William gave largely of his own free will to release a king, who had acted generously towards him, and who loved and trusted him. Hoveden, p. 722.

William the Lion of his daughters as royal wards must be ascribed to his dread of hostilities, since the right was neither asserted, nor exercised, and was once expressly disclaimed, by Edward I. In one important particular Scotland was more fortunate than Wales, for, after many disputes and much negotiation, it obtained a declaration from the pope, that it had no canonical dependence except on the see of Rome. It may seem accordingly, that the English claim of suzerainty was as unwarrantable in theory, as it was unsubstantial in fact. This would probably be to assert too much. The king of England, as an anointed king, possessed an undoubted diplomatic superiority over the sovereign of Scotland, and the privilege was contested at the court of Rome, one party eager to obtain it, and the other zealous that it should be withheld, with an earnestness which showed that it was not regarded as an unreality.¹ It certainly sanctioned the belief that the premiership in Great Britain lay with the English line. Accordingly, when an exiled Scotch noble appealed to

¹ Thus, in 1251, Henry III. writes to Innocent, requesting that the king of Scotland may not be anointed or crowned, inasmuch as he is the king of England's liegeman, and has done him homage. Innocent replies, affirming his right, but assuring Henry that he shall not exercise it to the prejudice of the royal dignity. At the same time he refuses the grant of the Scotch tenths, on the ground that it was unheard of to grant such a tax in another man's kingdom. Three years later, however, this objection was overcome, and Henry received the grant of a twentieth. *New Rymer*, vol. i. part i. pp. 277, 303. The application and

the answer both look as if the English claim of superiority, and the substantial independence of Scotland, were alike notorious facts. Henry, himself a liegeman of France, could not have objected to his vassal's anointment, if he had not regarded the vassalage as due for Scotland. Of the anointing, Mr. Burton observes, that "it gave a tone of respectability and solemnity to the rule of those who got it, and thence was much coveted." *History of Scotland*, ii. p. 95. The importance which the German electors attached to the title of king, is a fair illustration of the case in point.

Henry III., as suzerain, to do him justice against the king of Scotland, he advanced a doctrine that could not be thought unreasonable. If any umpire existed to be appealed to in the last resort between sovereign and subject in Scotland, the sovereign on whom the traditional rights of the Roman emperors had devolved for Britain, might fairly be accounted the supreme arbiter. Nor was the disinherited Bisset without colourable grounds for denouncing the reception given to Geoffrey de Marsh, who had been implicated in a plot against Henry's life, as a breach of the allegiance and fealty which Alexander II. owed to the English crown. The Scotch right to harbour fugitives from justice, could never be worse asserted than for one who suborned assassins; and Alexander virtually renounced the claim, when he agreed, at the treaty of Newcastle (1244), that neither sovereign should abet the enemies of the other. But the tendency of English lawyers was to reduce the vague, shifting claims, that had grown up confusedly in several centuries, into one compact system, in which all should be rigid and uniform. To them in the thirteenth century there were no shades of difference in the rights of suzerainty, though its exercise might be limited by local franchises. Wales disappeared from the roll of nations, not because English lawyers denied that it was a sovereignty, or because Edward I. disregarded treaties, but because the practice of the English courts treated it as only a county palatine, with some allowance of personal dignity to its lord. Our lawyers could not rise beyond their classical text-books, to the unfamiliar conception of a country connected with a powerful neighbour by any tie short of vassalage, or by any vassalage short of a French or English peer's.

By the death of Alexander III., in 1286, Scotland was left in a highly critical position. The heir, by modern notions, was the king's grand-daughter, Margaret, who was then a child in her father's kingdom of Norway. But the right of a woman to inherit was not yet firmly established, and, except for the prompt action of the Estates of Scotland, who met instantly at Scone and appointed a regency, the sovereignty would have been disputed by several lords who were kin to the royal family. Robert Bruce, earl of Carrick, actually seized the castle of Dumfries,¹ and formed a league, in which even English nobles were included, for the purpose of enforcing his claims by arms.² But it was not Edward's interest to let a vassal ascend the throne which might, by a little management, be secured for an English prince. He maintained a strict neutrality in England, while Bruce was reduced to order, and negotiations began soon afterwards, for marrying the young Margaret of Norway to the king's eldest son, Edward of Carnarvon. The Scotch Estates met at Brigham, on the borders (July, 1290), and agreed generally to the proposition, complimenting the king on his good fame, and the justice that he did so commonly to all; and on the good neighbourhood and great profit which the realm of Scotland had received from him and his ancestors. The compliment was not undeserved. For more than a century the relations of the two countries had been peaceful and friendly in no common degree, and if Edward had advanced some technical claims against the late king, he had never tried to embarrass the regency. But, in consenting to what was virtually an union of the two countries, if Margaret should live and have heirs,

¹ Palgrave's Documents and Records, pp. 42, 43.

² Dugdale's Baronage, i. p. 216.

the Estates stipulated, with great justice, that Scotland should remain free, separate, and without subjection, divided as heretofore by its marches from the realm of England. It was in Scotland that all homage was to be received, all justice administered, and all state-papers preserved. Edward's commissioners made no difficulty, except that they declined to renounce the right of erecting fortresses on the borders. But they insisted, with some peremptoriness, that the Scotch castles should be given up to the king. This the regency refused, courteously but firmly, though they gave a pledge of their good faith in accepting the bishop of Durham as an associate in their office.¹ The significance of the king's request was soon seen. In September, the young princess died on her passage from Norway to Scotland. As soon as the tidings were received, Robert Bruce raised an army, and his example was followed by every great lord. Edward cannot have foreseen the fatality that cut off the heiress of the Scotch crown in her youth; but he no doubt anticipated that some troubles would arise, before the settlement of the succession was secured. As it was, he received an urgent letter from the bishop of St. Andrew's, the first churchman of Scotland, praying him to march north with an army, that the succession might be settled peaceably and justly. The letter is that of a time-serving man, but it expressed a not unnatural sentiment. The verdict of a king famed for justice, and well practised in the law of nations, was likely to be a better settlement than could be hoped for from a civil war.

Yet, except by a civil war, perhaps, complicated by

¹ Probably the earl of Warenne was also sent into Scotland in some official capacity. The bishop of St. Andrew's says, in his letter announc-

ing the report of Margaret's death,—
 "The bishop of Durham, the earl of Warenne, and we have heard," &c.
 New Rymer, vol. i. part i. p. 741.

invasions from Norway and Holland, it seemed impossible that the Scotch succession would be decided, if Edward declined to act as umpire. The government was administered by a regency, of which John Comyn, himself a candidate for the vacant throne, was a member. A court so constituted could not be accepted as an impartial tribunal, and a government that was suspected of partizanship could hardly hope to make war successfully against more than half the kingdom. On the other hand, the competitors, altogether thirteen in number, were certain to be divided amongst themselves, as soon as they should succeed in upsetting the regency. Already seven earls, of whom Bruce was one, had addressed a protest to Edward, declaring that it appertained to the Estates of the realm to nominate the heir in case of a vacancy, and requesting him to see that their rights were not usurped by the executive.¹ Such an appeal, if Edward had no title to interfere, and no interest in the kingdom, would have been treason against the national liberties. With the death of Margaret the situation became more critical, and the suitors at once more importunate and more pliant. That the troops raised by Bruce effected nothing, and that Scotland, though anxious and unsettled, was not distracted by actual war, can only be ascribed to English influence; to the mediation or threats of Edward's envoys; and, to the general agreement that the king of England should adjudge the contested royalty to the best qualified suitor. The death of Edward's queen probably delayed his proceedings for a time, but there is reason to suppose that the interval was well employed. Robert

¹ Palgrave's Documents and Records, pp. 14-21. The date of this protest is uncertain, but I am inclined

to place it later than Bruce's attempt at civil war.

Bruce at least was negotiating with his English suzerain, and offering to do homage for Scotland if the crown were given him.¹ Probably other candidates were employing the same persuasions. Regency and nobles all seem to have appealed to Edward as arbiter, and they even consented to meet him in the English marches, making, we may presume, the reservation, which was certainly made three weeks later for another conference, that this compliance should not be held to impair the privilege lately guaranteed by treaty, that the king's justice for Scotland was to be done in the kingdom itself.² The course of events afterwards has made this alacrity to refer everything to Edward appear base and unnatural, so that English chroniclers are sometimes suspected of having exaggerated its extent.³ But it would be more wonderful if the feeling at the time had been different. The invitation to Edward probably came, not from the Estates, who perhaps were not even consulted, nor from the burghs, which

¹ "Let the king know that whenever he will make his demand in law, I will obey and aid him." Palgrave's Documents and Records, p. 22.

² "We will and grant that this their coming to treat with us on this side the Tweed do not turn to their prejudice, nor to that of the kingdom, that they should come and treat with us another time on this side the aforesaid water, by occasion of this coming, so long as the treaty last." New Rymer, vol. i. part i. p. 755. This writ, issued May 31st, was, however, not used till June 5th.

³ Edward's writs of summons are not extant. But the speech delivered by Roger de Brabazon, in the first meeting at Norham (May 10), says, that the king "requisivit" (has

required or requested ?) those present by his letters to meet him in this place. Among those assembled are said to have been, besides prelates and lords, many of the commonalty (*populares*) of the kingdoms of England and Scotland, as well clergy as laymen. At the second and fuller meeting of June 2, the bishop of Bath and Wells speaks of Edward as having ordered (*mandavit*) the Scotch bishops and lords to attend. The first official act towards the conference may, therefore, have come from the king of England, in the shape of writs intended to assert his claim by implication. But he would hardly have issued them without having good warrant to suppose that they would be respected.

were thoroughly national, but from a regency committed to the English alliance, and from nobles like Bruce, Balliol, and Comyn, who were Normans by descent, and English by allegiance and interest. The invitation, once given and accepted, it was natural that all classes should endorse it. It was likely to ensure peace, and those who apprehended remoter dangers would best guard against these by attending the conference.

Edward had informed his council,¹ that he intended to assert his suzerainty on occasion of the conference. He summoned a full parliament from all classes of the community to meet at Norham, in May, while fifty-five military tenants, among whom were three claimants for the Scotch crown,² were ordered to bring up their retainers three weeks later. The king's object, probably, was to avoid all appearance of force at first, while he yet kept a sufficient army in reserve. Proceedings were opened (May 10) by the English justiciary, Roger de Brabazon, who read a letter from the king, stating, that he had come as overlord to do justice to all; that he wished not to delay or hinder it, or to occupy unjustly on any man; but that, to assure the better carrying of his conclusions to effect, he desired that his claim to direct sovereignty should be admitted. The Scotch bishops and lords asked time (May 11) to consider the claim advanced, and consult with their countrymen, and a period of three weeks was granted them. During this interval they conferred with other influential Scotchmen, who flocked to the place of meeting, so that something like a formal Scotch parliament

¹ Wikes, Gale, ii. p. 122. *Annales de Waverleia*, p. 409.

² John de Balliol, Robert Bruce, and William de Ros. Report on the Dignity of a Peer, Appendix i. p.

54. As many as one hundred and eighty-seven military tenants were summoned for the second Welsh war, so that fifty-five cannot be called a large number.

was assembled.¹ Against Edward's claims, supported by numerous excerpts from chronicles, which the abbots of different monasteries had contributed, and put into shape by the best English lawyers, a legal and antiquarian answer could not easily be prepared in three weeks. At the end of the allotted period the Estates returned to a conference, which was held this time (June 2) on the Scotch side of the Tweed. The nobles and clergy then admitted, that they could not impugn the English claim of suzerainty. The commons were less pliant. What their precise answer was we know not, and English lawyers regarded it as "not to the point,"² but it probably was an appeal from law to justice, from technicalities of feudal style to the facts of history during the last century. The court disregarded the objection, and proceeded by calling on Robert Bruce to say, whether he recognized the king of England as superior or direct lord of the Scotch realm, and was willing to ask and receive justice at his hands. Robert Bruce replied in the affirmative, and his answer was followed by all the claimants or their attorneys. The recognition of Edward's claim was complete, and it was followed by its natural consequences. The Scotch fortresses were given up to the custody of the English king. An Englishman, Brian Fitz-Alan, was added to the Scotch regency, and an English-

¹ The proceedings state expressly, that the bishops, prelates, earls, barons, gentry, and commons of the whole kingdom were consulted, and, as the commons gave in a separate answer, it appears that the regular forms of a parliament voting by estates were observed. But the right of the Scotch burghs to be consulted was as yet of doubtful validity. There are no popular signatures to

the treaty of Brigham, and Mr. Robertson thinks that their first participation in public business of importance was in 1295. Scotland under her Early Kings, ii. p. 152. Edward seems to have overreached himself, in his desire to obtain unanimous recognition.

² "Nihil efficax." *Annales Regni Scotiæ*, p. 245.

man put into commission with the Scotch chancellor. The bishops and nobles of Scotland took the oath of fealty to Edward as lord superior, and the king of England's peace was proclaimed everywhere through the land. Proceedings were then adjourned for a time, and Berwick-on-Tweed was fixed, as the place in which a court of justice should be held some two months later, to consider the rival claims. By this choice of the commercial capital of the country, Edward again recognized the principle that his justice as overlord was to be done in Scotland.

During nearly a year the numerous claimants to the Scotch crown prepared statements of their respective titles. These were put in before a commission of twenty-four English statesmen and lawyers, assisted by eighty Scotchmen of rank, of whom half were nominated by Balliol, and half by Bruce.¹ The supereminent claims of these two candidates, and the fact that they represented conflicting principles of inheritance, were probably the justification of the large influence given them in the commission of inquest. In fact, some of the pretensions advanced were so remote and fanciful, that it seems as if they were put forward, merely in ostentation of royal affinities, or in some vague hope that the claims of the nearest heirs might be defeated on technical grounds. Practically, there were three questions at issue. Were the three descendants of David, earl of Huntingdon, who were unquestionably the nearest in blood, disqualified by any circumstance

¹ So says the legal abstract in Rymer; and, as it gives the names of those chosen by either candidate, its authority must be regarded as paramount; but the *Annales Regni Scotiæ* (p. 254) speak of them as elected by all the candidates. It is

curious that Balliol nominated one of his rivals, William de Ros, while Bruce named William and John de Soules, Nicholas de Soules being a competitor. Perhaps this was intended to conciliate men who had no very formidable pretensions.

barring their right of inheritance? Assuming them to be qualified, was the crown partible among them, or, if impartible, did it descend to the great-grandson by the eldest daughter, or to the grandson by the second? Edward, finding his council embarrassed by the multiplicity of pleadings, decided on trying this last issue first, and desired the eighty Scotchmen on the commission of inquest to report, whether John de Balliol, great-grandson of David, earl of Huntingdon, by his eldest daughter, Margaret, or Robert Bruce, grandson by the second daughter, Isabel, had the prior claim to the inheritance. The question was first debated (Oct. 25) in the king's council, which included most of the twenty-four English assessors.¹ All easily agreed that the laws and customs of England and Scotland, which in all important matters were the same, were to be followed in preference to the imperial code; and, in reply to a second question, the bishop of Durham, as spokesman, answered, that, reserving whatever prerogatives the kingdom of Scotland had, or might have in other respects, it had no claim to be judged by any other laws of inheritance, than those which regulated

¹ I cannot understand Mr. Burton's statement, that "king Edward's own council of twenty-four were alone consulted." History of Scotland, ii. p. 233. The council met on two days,—October 25, when forty-seven members were present, and November 1, when fifty attended, though one seems to have pleaded ignorance. *Annales Regni Scotiæ*, pp. 254-261. Among these, several names of assessors are wanting, as of the bishop of Bath and Wells, William de Bereford and John de Lethegreyns. The object of the discussion in council I take to have been, that the council

was a more orderly assembly than the committee of inquest, where parties naturally ran high among the Scotchmen. Still less can I admit, that the eighty acted only as "advisers of the two claimants." They were called in the second day to give two important opinions: one, that the case was to be decided by Scotch law; the other, that if Scotch law were insufficient, the king in council might provide for the emergency. Then, after several days, having had ample time for deliberation, they were called in (Nov. 5) to accept or reject the verdict of the council.

the succession to other dignified tenures in England and Scotland. The claimants were then questioned, in presence of the eighty Scotch commissioners (Nov. 1), if they acknowledged Edward's right to adjudge the kingdom on the principles that governed the succession to earldoms and baronies. Balliol agreed, with the reservation that the kingdom could not be divided, while Bruce, having different interests, recognized the unreserved right of his suzerain. After some further pleadings, judgment in council was unanimously given that the nearest in one degree of blood through the second daughter did not exclude the more remote in one degree of blood through the eldest daughter. From the council it was referred to the commission of inquest. As the English assessors had already taken part as councillors in the argument, the matter would have been left to the Scotch for decision; but they requested and obtained the assistance of their usual colleagues. The minutes of council were read out, and Bruce's chief partisan, the bishop of St. Andrew's, declared himself thoroughly convinced by the arguments adduced. The commission gave in its unanimous adhesion to the verdict.

The question was now simplified. The title advanced by Florence, count of Holland, who descended from a sister of William the Lion, on the double ground, that David, earl of Huntingdon, had been attainted in blood for waging war against his English suzerain, and had bartered away his claim on the succession for an estate, is more interesting to the feudal lawyer than to the statesman. The count ultimately withdrew it. An incidental claim by Robert Bruce, on the ground that Alexander II. had at one time declared him heir to the throne, seems either to have been regarded as not

proven, or, as answered by Balliol's counter-plea, that the king's right to give away an entailed estate was barred by the birth afterwards of an heir. But the claim of Sir John Hastings, who descended from Ada, earl David's third daughter, was at first sight more reasonable, and was urged with greater persistency. He pleaded that, by the common law of England and Scotland, all honours and lands held in chief of the crown are partible among sisters, and each sister is entitled to an equal share. If, therefore, the kingdom of Scotland follows the law of earldoms and baronies, it is partible among the heirs of the three daughters. He proceeded to argue that, as the kings of Scotland were neither crowned nor anointed, their kingdom had no such dignity as the realm of England, or as kingdoms held under the empire. Robert Bruce put in a plea to the same effect, and urged with great force, that the common law knew nothing of impartible tenures and fiefs. The answer of Balliol rested mainly upon the ground, that the object of all law was to preserve, not to destroy; and that, if a kingdom might be indefinitely subdivided, the very purpose of legislation would be defeated.¹ The judgment of the court was more technical. It stated, without assigning reasons, that the king-

¹ The general principle of English law being that, where several women inherited with equal rights, the inheritance, so far as it was partible, was to be divided among them. Bracton, f. 67. In the case of Robert Fitz-Parnel, earl of Leicester, who died, leaving two sisters, the lands were evenly divided, but the earldom, with the third penny, and the office of high steward, went with the elder sister. Dugdale's

Baronage, i. p. 84. Whether this represents an earlier theory of English law, partly coinciding with the case of the earldom of Athol (quoted in these proceedings,) by which the eldest daughter should have the rights of an heir male over a dignity, or whether it is not rather an instance of the right, still claimed by the crown, to terminate an abeyance in favour of one of the co-heirs, is a point I cannot decide.

dom was not partible; that the crown lands were not partible; that earldoms in Scotland had been decided, in the case of the earldom of Athol, not to be partible; and that, where there was no male issue, the eldest daughter took the earldom, without provision for her sisters, except of grace (Saturday, Nov. 15). Two days after this verdict had been given (Monday, Nov. 17), Edward, by his justiciar, pronounced judgment in favour of John de Balliol. The verdict stated, that the kingdom and crown lands of Scotland were not partible, but that lands and tenements out of the realm of Scotland must follow the laws of the country in which they were situate. Two days later, orders were issued to give Balliol seisin of his kingdom, its castles and all its property, with reservation of the reliefs due to Edward. The great seal which the regents had used was formally broken up, and its pieces preserved, in sign of Edward's suzerainty, and to prevent any doubt being thrown on such writs as the new king might issue. King John, thus enfeoffed, did formal homage, in the most binding words, to his suzerain, promising to bear him faith for life and limb and earthly honour, and to do him the services due from the realm of Scotland (Nov. 20). The justiciary wound up the ceremony, by charging him strictly that he should do justice in such wise, that no complaint should be made of him to his superior.

Edward's great object was now achieved. He had reasserted, in the most formal and stringent manner, the right of the English kings as overlords of Scotland, and, if signatures could guarantee his title, he had on parchment the vassalage of the first names of the country. Down to this point it is difficult to convict him of wrong-dealing. He may have exaggerated

his rights, but they were not the baseless pretensions of an unscrupulous man. During Alexander's reign he never waived his claim to homage, and during Margaret's minority he took no steps to enforce it. As far as his measures can be traced, he seems to have done his best to save Scotland from civil war. It is doubtful whether he was invited to adjudicate, or whether he claimed the right as overlord, but if, as is not unlikely, the latter be the true version of the case, the prelates and nobles who obeyed his writs had no reason to tax him with ungenerous conduct if he demanded a yet more formal recognition of his suzerainty. It is quite probable that he would have declared war if his title had been denied. But had the Scotch Estates cared to resist, they might have taken the field as soon as the king, whose little army did not arrive till the matters in dispute had been thoroughly settled, and was probably rather meant for parade than for actual service. The fact is, that the Scotch nobles were Normans, caring little for their adopted country, and looking for honours and pensions to the English court; and we do not want evidence that within three months of the submission several of them were applying for grants out of the crown lands.¹ His title once recognized, Edward's anxiety to do justice is very marked. His commission of inquest was chiefly Scotch; his former commissioner for Scotland, the bishop of Durham, made one of the strongest reservations of the prerogatives of the Scotch

¹ There are seven briefs extant (of August 13, 1291) giving grants to the amount of one hundred pounds, or one hundred marks, yearly value out of the Scotch wardships, &c. These were speedily cancelled, the claimants receiving satis-

faction in some other way. *Rotuli Scotiæ*, i. p. 3. Probably Edward or his ministers did not regard the transaction as very creditable. Later on, John Comyn received a remission of arrears to the extent of £1563 14s. 6½d. (p. 17.)

crown; and the principles and practice of English law were overruled in the final decision which declared, against Edward's interest, that the kingdom of Scotland was not partible. Yet, had it been severed into three different principalities, it is at least probable that the earls, backed by England, could have held their own. Nor can Edward be accused of seeking to advance new claims. His direction to the royal justiciaries, that his writs are to act in Scotland as well as England, applied merely to the few months during which he was in possession as overlord.¹ One of his first acts was to execute a formal instrument, acknowledging that the king of England had no claim to wardship, or marriage, or to occupation of Scotland during a minority. He ordered all the court rolls to be given up to the new king.² There was only one change in the relations of England and Scotland, but it was of unspeakable moment. So long as the amount of homage rendered by the Scotch kings was indeterminate, and their substantive independence a palpable fact, their subjects were slow to appeal to the possible suzerain, and the king of England might evade unpleasant controversies. This fortunate condition was now changed. Any man, who conceived that king John denied him justice, might appeal to the king of England, and Ed-

¹ They are dated July 3, 1291.

² It is worth noting that, as early as 1282, Edward had caused a great many documents of importance in the Scotch exchequer to be inventoried. New Rymer, vol. i. part ii. pp. 615-617. On that occasion the English commissioners seem not to have been allowed to inspect certain sacks of papers. Accordingly in August, 1291, Edward issued a

fresh commission, not only to examine documents, but to carry them away. Rot. Scot., i. p. 3. The pretext was, that they were for use during the trial. It is not known certainly what became of them afterwards. Probably, they were restored by Edward, taken away again by Cromwell, and lost at sea during the reign of Charles II. while they were being sent back.

ward could not, without dishonour, refuse the legal remedies to an aggrieved vassal.

Neither was there from the first any uncertainty as to Edward's intentions. Only six weeks had elapsed, since the kingdom had been adjudged to Balliol, when a burghess of Berwick-on-Tweed appealed from the Scotch courts to the king of England. King John sent commissioners to the king, who was then at Newcastle, and remonstrated against this appeal being heard, reminding Edward of the treaty of Brightham, by which no pleas were to be heard out of Scotland. Edward replied in presence of a full council. He said that the present case was one in which justice had been withheld by his own officers appointed during the interregnum, and it therefore pertained to him to hear the appeal. But, further, no promises that he had made, and honourably observed during a time when Scotland was masterless, could divest him of his indefeasible right to hear appeals on matters that concerned Scotch kingship and his own suzerainty. This protest was afterwards repeated in king John's presence, and he executed a formal surrender for himself and his heirs of all claims to an independent jurisdiction. He went back to Scotland loaded with his patron's favours, and even with a fresh jewel in his crown, with the island of Man restored to him,¹ but a disgraced and ruined man. The rights he had given up were the very essence of sovereignty, as Edward well knew by his own experience in Gascony. The Scotch showed their feeling in an unmistakeable manner. The Estates insisted on nominating to all offices of trust,

¹ Edward had annexed this in 1290, apparently at the request of the inhabitants, whose native line of princes had died out, and who disliked the Scotch rule. New Rymer, vol. i. part ii. p. 639.

and the king found himself surrounded by strangers, and not without fear for his life or liberty. Meanwhile, other difficulties thickened upon him. Every Englishman, or English subject, who could manufacture a claim on Scotland, sent it in, relying on the king's dread of an appeal.¹ Every Scotchman, allied with the dominant faction, looked up his dormant rights and demanded satisfaction from the king's fears.

Before long king John received a formal citation to appear in the English parliament, and answer a charge of denying justice, which Macduff, son of the earl of Fife, brought against him. By the rules which the English court had laid down, the king of Scotland was allowed to plead by attorney;² and the intention probably was that he should keep proctors at Westminster, such as represented England in Rome or Avignon, who should answer for him in appeals. But, having disregarded the first writ altogether, king John thought it advisable to plead in person to the second, the more so as, by other rules which the English judges framed for the new occasion, Macduff's homage, if judgment were given for him, would be transferred, during the life of either king, to the king of England, and he was also to recover damages for being unjustly cast in the courts below. When the case came on for

¹ Cases on record are those of John Mason, merchant of Gascony, the abbot of Reading, and Aufrica, heiress of the Isle of Man. *Rotuli Scotiae*, i. pp. 17-19.

² "And it is to be known that no essoin shall be allowed the king of Scotland or the plaintiff in all the proceedings in this case, but let them have an attorney, according to the

custom of the English court, if they think it to their advantage." *Riley's Pleadings*, p. 152. The case here referred to is that of Macduff. No doubt, on a charge of treason or felony against himself, Balliol would have to appear personally, as king John of England was cited before Philip Augustus for the murder of Arthur.

trial (October, 1293), king John and his chancellor, who attended him, stood upon the solid political ground, that the king could only answer by advice of his council. The English judges treated this from the legal point of view as contumacy, gave Macduff damages for the imprisonment for which his plaint on that day was brought, and decreed that three of king John's castles should be sequestered, "because it was just that an offender should be mulcted in what had emboldened him to offend." Balliol's shortlived courage at once gave way. Knowing, apparently, what sentence had been agreed to, he came into court before it could be pronounced, and prayed the king, whose man he was, to let him consult with his people, whose interests were concerned. He would return, and plead in the first summer parliament of the next year. This proposal was easily accepted, and king John returned to his barren sovereignty in the north. The charges, commonly brought against Edward of deliberate personal insults, cannot be sustained. Rather it is evident that he was willing to surround his vassal with all possible ceremonial, and treat him with all indulgence, so long as his own suzerainty was acknowledged and absolute. He claimed of Balliol, what the king of France and the pope claimed of himself. But chains are not worn easily by a high-spirited people, and a heavy responsibility rests with him who attempts to forge, or to rivet, them anew. From the moment Edward extended an unreal right of overlordship to comprehend his permanent rights as a supreme judge, he overstepped the boundaries of tradition, and translated a harmless diplomatic fiction, into an oppressive reality, of feudal allegiance. The instincts of the ruler and the lawyer were stronger than political foresight and conscience.

CHAPTER XIII.

WAR WITH FRANCE AND SCOTLAND.

JEALOUSY OF ENGLAND AND FRANCE. BATTLE OF ST. MAHE. NEGOTIATIONS AND TREACHEROUS SEIZURE OF GASCONY. PREPARATIONS FOR WAR IN ENGLAND. FIRST CAMPAIGN IN GASCONY. TURTEVILLE'S CONSPIRACY AND FATE. RUPTURE WITH SCOTLAND. STORM OF BERWICK. CONQUEST OF SCOTLAND. TAXATION OF THE CLERGY ENFORCED. OPPOSITION TO ILLEGAL TAXATION. CAMPAIGN IN FLANDERS, AND TRUCE WITH FRANCE. EDWARD'S CONCESSIONS TO THE CONSTITUTIONAL PARTY. WAR OF INDEPENDENCE IN SCOTLAND. SIR WILLIAM WALLACE. BATTLE OF STIRLING. RAVAGE OF NORTH-UMBERLAND. BATTLE OF FALKIRK, AND ITS IMMEDIATE RESULTS.

WHILE Edward was occupied in consolidating his new suzerainty over Scotland, he found himself unexpectedly embroiled with France. During the reigns of John and Henry III., we had become a by-word among nations for our disastrous and shameful defeats abroad. Beaten out of every province that the French seriously essayed to conquer, and dishonoured, as well as defeated in every great encounter, we were currently taunted in brawls as "English cowards."¹ For a time men chafed in silence under a reproach,

¹ "Anglicani caudati," or turn-tails, the nearest rendering mediæval Latin would afford of "coward," from "queue." I suspect the legend of

the long-tailed men of Kent is derived from a classical translation of "caudati." Paris. Hist. Major, pp. 785, 790. *Opus Chronicorum*, p. 51.

which it seemed impossible to retrieve. But, in the civil wars, Englishmen learned a discipline and a self-confidence, which told signally on the success of Edward's Welsh campaigns. Llewellyn was not, as the event showed, a very formidable antagonist; but he and his ancestors had held England at bay for many years past, and it was an augury of new times, when the old enemy was subdued in a campaign where only the Gascon allies had so much as sustained a check. As the prestige of England increased, the dormant jealousy of the French revived, and it was heightened along the coast by commercial rivalry. Accident precipitated a political crisis. In 1292 an English and Norman sailor quarrelled which should be first to water at a well. The Frenchman was killed in the scuffle, and his mates pursued the homicide, and, by one account, took vengeance on him. But, from that time, there was almost open war between the Normans and the king of England's subjects; and the Normans, sailing together in large numbers, and with ships equipped for war, plundered and slew mercilessly on the high seas. At one time, when the English mariners believed that peace had been restored, seventy of their ships were intercepted and taken by a fleet of three hundred sail off Brittany. The loss on this occasion was estimated at twenty thousand pounds. Sometimes the prisoners were hanged, with dogs at their sides, to their own mastheads; sometimes they were flayed alive. Edward negotiated at Paris to obtain redress for his subjects, but in vain. It was believed that Charles of Anjou gave secret assurances of support to the Norman sailors, and even erected gallows along the coast. It is certain that it was Edward's interest to avoid all complications. He refused a letter of

marque to an injured subject,¹ and made no preparations of men or money to enforce his diplomacy.

Thus, abandoned by their king, the men of the Cinque Ports resolved to act for themselves. With Dutch, Irish, and three Gascon merchantmen for allies, they sailed out from Portsmouth (April 24, 1293), and were off St. Mahé in Brittany when the French fleet, reinforced by Flemings and Genoese, came in sight. Though each party afterwards declared that it had been attacked without cause, it appears that the scene of battle had been chosen beforehand, and was marked by a great flag hoisted from a ship.² The English had only some sixty ships against about two hundred of the enemy, who came on cleared for action, and with red streamers flying from their masts in token that no quarter would be given.³ But English seamanship, favoured perhaps by a sharp hailstorm in a rough sea, triumphed over all odds, and eight thousand French⁴ perished in the engagement, while one hundred and eighty ships were taken into port by the conquerors. Yarmouth alone got thirty ships as its portion of the spoil. A share was offered the king, but Edward angrily refused to accept it,⁵ and threatened to try the offenders by a royal commission. They answered by a spirited remonstrance, pleading that they had not begun the quarrel, that they had fought only as people who could not otherwise escape death, and that they were not bound to make restitution of spoil taken from men who had hoisted the

¹ Champollion-Figeac, *Lettres de Rois*, i. p. 368.

² Hemingburgh, ii. p. 42.

³ The barons of the Cinque Ports say, that the French ships had only half ladings, in order that they might fight the better. Trivet says (p.

326), that they had been making prizes and were laden with wine.

⁴ Chron. de Melsa, ii. p. 257. The *Opus Chronicorum* (p. 52) says 15,000.

⁵ Matt. West., p. 419.

red flag. Wherefore they prayed the king that wrong might not be done them, as they were ready to give and receive right in his court, by just judgment of their peers, and according to the laws of the sea. "And, dear lord, your barons of the Cinque Ports, and all others of the marinage, are sworn to you against all who can live or die; and if you please remember that you are bound to your people to keep the lawful rights, and the customs, and franchises which your ancestors, kings of England, have given, and yourself granted and confirmed. And be the king's council well advised, that, if wrong or grievance be done them in any other fashion against right, they will sooner forsake wives, children, and all they have, and go to seek through the seas where they shall think to make their profit."¹

These bold words were followed up by suitable acts. The English sailors swept the seas, fighting, it is said, and winning one more great battle,² but certainly taking, destroying, and slaying wherever they went. The Normans were thoroughly cowed and dared not venture out. King Philip sent a dignified, and not unfriendly, remonstrance, demanding that restitution should be made, as he would himself have made it if required, and complaining that hostilities were continued. Edward answered that he had taken order to stop piracies, and that the English courts were open to those who sought redress. He was willing to make restitution, provided the claims on either side were adjusted by arbiters, or he would discuss the matter in a private conference. Meanwhile he sent down the threatened commission,

¹ Champollion-Figeac, *Lettres de Rois*, i. pp. 392-398.

² I suspect the Continuator of Florence of Worcester (ii. p. 268)

speaks of the same battle, in which the *Opus Chronicorum* (p. 53) says, that the English took and destroyed thirty ships of war.

which commenced vigorous enquiries. But the feeling in England would not allow of any extreme concessions, and the feeling in France was daily growing in intensity. The next step was that Edward, as a vassal of Philip, received a citation to appear in the French court and answer for the wrongs done to his suzerain. By an irony of fortune, the citation came at the very period when Edward was citing the king of Scotland to his court. He could not dispute the French king's claim, but he would leave nothing untried to avoid the humiliation of appearing in person. His brother, the earl of Cornwall, who had married the French queen's mother, was sent over to negotiate. It was arranged that French honour should be saved by a formal cession of Gascony, which Philip should give back after forty days' occupation. The alliance of the two crowns was then to be strengthened by Edward's marriage to the French king's sister Margaret; and the duchy, settled upon her issue, would pass at Edward's death from the English crown. No scheme could have been wiser or more favourable to the interests of both countries. Philip defeated it by a gross act of treachery. Having obtained possession of the English fortresses, he refused to make the covenanted restitution. It is possible he was irritated at the strong feeling displayed in Guienne, where Normans, and even French officials, were murdered on publication of the writ addressed to Edward.¹ It is said that the princess Margaret was indisposed to receive the addresses of her elderly lover.² But the perfidy

¹ New Rymer, vol. i. part ii. p. 800.

² The Continuator of Florence of Worcester (p. 269) speaks of Edward as infatuated by an unlawful love,

the proposed marriage being within the prohibited degrees. It would be curious to know if he had any other than political reasons for the match.

was the more flagrant, that the English province was excellently prepared for war by its seneschal, John St. John. Of course all negotiations were at an end; and the earl of Cornwall left Paris, following the numerous English students who had taken flight earlier.¹ Commercial intercourse between the two countries was suspended, and the want of French corn and manufactures was severely felt in England.² But every other feeling was overpowered by indignation, when the earl of Cornwall told the English parliament (May, 1294), how grossly he had been overreached by French treachery. It was whispered, that if the king of England had ventured over to Amiens his person would have been seized. Edward swore that he would fight out his quarrel, though he had no greater following than a squire and a horse. The peers agreed that Gascony must be recovered by arms, and promised to support their king to the uttermost. King John, who had come to prosecute his suit, gave three years' rental of his English estates, whether forseeing that he should soon forfeit them, or thinking the time favourable for a compromise on the question of overlordship. It is not unlikely that he attempted some such diplomacy. He is accused by an English chronicler of having fled, as it were, suddenly from Edward's court, and the panic may have been caused by an angry interview. The further hearing of the Macduff case was adjourned to Martinmas.

Edward had been slow to begin war, but he left nothing undone that might bring it to a prosperous issue. He formally renounced his homage to Philip. He made

¹ Matt. West., pp. 419-421.

² Matt. West., 421. Wikes, Gale, ii. p. 126. Among French and Flemish imports into England were wine,

rayed cloths, woad, fruit, vegetables, herrings, bark, horses, and fire-wood. Liber Albus, i. pp. lxxxviii. xciii. xciv.

alliances in Flanders, Germany, and Savoy, tempting the count of Flanders with an offer of marriage for his daughter to prince Edward, buying the king of the Romans with £100,000, and subsidizing Savoy with £22,000. He seized all the wool in the English ports, and forced the merchants to ransom it as a preliminary to taxation. The goods of French merchants, and the surplus revenues of alien monasteries, were confiscated to the king's use. He sent writs of summons to the nobles of Scotland, who were thus familiarized with a new claim of suzerainty, and the one which of all others was most burdensome. It does not appear that any one of them complied. But in England the national feeling seconded the king nobly. From the lay fees the king obtained a tenth, and from the citizens a sixth of all their personalty. The Londoners made an additional grant of their own free will. The clergy were appealed to by the king in person for an extraordinary grant. He pointed out how liberal the other estates had been, and how much more might reasonably be demanded from men, who were personally exempt from military service, and whose lands were commonly free from its obligations. He ended by asking a grant of half their incomes, in return for which he promised a redress of grievances. The clergy tried to compromise for a fifth, but their spokesman, the dean of St. Paul's, died of terror in the royal presence, and Sir John Havering, coming into convocation, addressed it briefly: "Reverend sirs, the king demands half your revenues. If any oppose, let him stand up, that he may be marked as an enemy of the king's peace." The clergy quailed and gave way. Their list of grievances was headed with a request that the Mortmain Act might be abolished, and the king answered that he had no authority

to repeal a statute passed by counsel of his peers. The king took care to exact his dues rigorously. Commissioners were appointed in great numbers, and, from the pigs and kitchen implements of the burgess,¹ to the very lanterns and leper-houses of the monasteries, nothing was too small, or too holy to escape appraisal and assessment. The clergy repented bitterly, that they had not refused to give anything without the sanction of the pope. Nothing could better justify the threat Edward afterwards carried out, of putting them without the pale of the law.

The ill-starred rebellion in Wales hindered Edward from accompanying his troops to Gascony, and, in spite of a capable leader, John St. John, and a general disposition in the province to welcome them, the English failed under a worse reproach than of bad generalship or cowardice. One of their captains, John Giffard,²

¹ The returns of the commissioners for Colchester in two later years of the reign (1296 and 1301), have been preserved, and are probably a fair sample of the general practice in England. "Henry Goodyear had on the aforesaid day five quarters of corn, value of the quarter, 5s. 7d., and seven quarters of barley, value of the quarter, 4s.; two horses and cart, 1 mark; hay for them, 3s.; four pigs, 5s.; silver cup, 5s.; one bed, 4s.; two silver spoons, 10d. each; brass pot, 3d. Total, £4 8s. Seventh, 12s. 7d." Rot. Parl., i. p. 228. Some things were exempted from taxation. Gentlemen were not taxed on arms, dress, jewels, or plate; and tradesmen in towns were allowed a double bed, a dress, a ring, a silver cup, &c. Bart. Cotton, p. 255. Evidently the taxation was meant

to fall on farming stock and stock-in-trade, rather than on furniture and ornaments. But the upper classes were exceptionally favoured. Men owning less than 10d. in value escaped altogether.

² Dr. Pauli speaks of Giffard as "100 years old." *Gesch. v. England*, iv. s. 94. This is, I suspect, a translation of "miles quidam centenarius." Hemingburgh, ii. p. 50. The "centenarius," like the "centurio" (*Mat. West.*, p. 423), was the captain of 100 men (*Hemingford*, ii. p. 98), and a person of importance. Thus John, lord of Gommenyz, banneret, received £400 a-year under Richard II. for the maintenance of 100 men. *Madox, Baronia Anglica*, p. 161. The name of the offender is given differently. Hemingburgh calls him John; Trivet, who adds that he

capitulated for a small fortress, with liberty to withdraw his own troops, while he left his Gascon allies to the mercy of Charles of Anjou, who hanged fifty of them. The English marshal at Rions brought Giffard to a court-martial, but the soldiers of Giffard's garrison, heated with wine, came up in a body to rescue a commander, to whose policy they ascribed their own preservation. A general brawl ensued, the knights supporting their superior officer, while the archers and yeomen generally made common cause with Giffard and his party; and the gentlemen, outnumbered and beaten, were compelled to take refuge in the castle, or drop down the river to neighbouring places. Before order had been restored, the French army appeared before the place, and easily captured it, making several prisoners of importance. Giffard was accused of calling the French in, and for a time dared not show himself in England. Besides Bayonne, where the people had risen in arms for them, the English now only retained St. Sever, which they captured the same day that they lost Rions. Even this was forced to capitulate after a gallant defence, St. John not daring to raise the siege by a battle. But so many of the French had died of disease, that the garrison was allowed to march out, and the French

stayed many years in France, speaks of him as Walter. No Walter Giffard can be traced living at this time, though three had died during the reign. There were three John Giffards—John Giffard of Brimsfield, in Gloucestershire, who was not more than 62 years old; John Giffard, his son, a boy of 9; and another John Giffard, aged about 23 (*Dugdale's Baronage*, i. p. 424. *Calend. Geneal.*, pp. 25, 244, 281, 572, 625).

Giffard of Brimsfield, a veteran soldier of doubtful morality, a man of position, and who served during this campaign in Gascony (*Dugdale's Baronage*, i. p. 500), is the most likely hero of this adventure. But, if it were he, he must have made his peace quickly, as he received a summons to Parliament for Martinmas of the same year. Report on the Dignity of a Peer, Appendix i. p. 71.

army soon evacuated the province. Not long afterwards the English recovered St. Sever, but were too weak to carry on systematic hostilities.

The king of France meditated grander schemes than the mere recovery of a province. Edward was by this time the best served, the most respected, and the most hated of kings. Among the pleas then before his court was one in which John Fitz-Thomas, a man of position in Ireland, accused William de Vesci, the chief justice of Ireland, of having invited him to join a conspiracy, and of defaming the king with a charge of cowardice. De Vesci was charged with saying, that Edward had wished to order a retreat before the battle of Evesham, and had been forced into giving battle by Sir Roger de Clifford, who ordered banners to advance and pricked forward. The story is almost certainly a wanton lie, but Fitz-Thomas no doubt adopted a current slander,¹ and political feeling must have been bitter indeed for the Paladin of his age to be charged with cowardice. Philip seems to have known of this feeling. Wanting an agent to treat with the Welsh and Irish, he selected one of his captives, a Sir Thomas Turberville from Herefordshire,² and bribed him with a promise of the principality of Wales

¹ Holinshed, who gives a graphic but inaccurate account of the quarrel (*Chronicles of Ireland*, p. 63), represents Fitz-Thomas as earl of Kildare, a title nowhere given him in the pleadings, and says that De Vesci called him to account for making private war. Fitz-Thomas retaliated by taunting De Vesci with his birth, (he was a bastard), and saying, that as he had married the heiress to the lands of Kildare, he wished to beg the forfeiture of the title, and make his son a gentleman. From the pro-

ceedings in the king's court, it seems that Edward desired to hush the matter up. Twice was a day for trial by duel appointed, but on each occasion one of the combatants had not been properly summoned, and the court adjourned the trial indefinitely. *Rot. Parl.*, i. pp. 127-132. De Vesci was employed elsewhere (*Foss's Judges of England*, p. 168), and Fitz-Thomas returned to his old practices without fear of interruption.

² *Rot. Parl.*, i. p. 25.

to become an agent of the French designs upon England. Turberville's sons were kept as hostages for the execution of his promises, while he himself was released and allowed a passage to England. At the same time, a treaty, offensive and defensive, was made with Scotland. Irritated by Edward's incessant claims of suzerainty, the Scotch nobles had come to see that their king's cause was their own, and that, where the sovereign was forced to plead, the vassal would be called upon to serve. Distrusting, with reason, their king's weakness, they elected a council of twelve to administer the government under him, associated the great towns in their designs, and expelled every Englishman from civil employ. But it was difficult to obtain unity of action. The French fleet, more than three hundred strong, was collected in the Channel in July, when the Scotch were still unprepared to act, the Welsh subdued, the Irish discords pacified, and Turberville unable to obtain any command on the South coast which he might betray. Nevertheless, he wrote to them, announcing intrigues with Morgan, and charging them to make no truce. They sailed along the coast in overpowering force, and landed a force of fifteen thousand men at Dover (Aug. 1, 1295). At first all was panic in the town, but while the invaders were occupied with sacking houses, the citizens united with the forces detached to guard the coast, and made a vigorous onslaught, which ended in the total defeat of the French. More than five thousand of their men perished. The French had wasted on a petty foray a force that, in their estimation, might have occupied all England; and the insult was soon retaliated on their own shores by the men of Yarmouth, who burned and sacked Cherbourg. The wretched traitor who had invited the enemy was denounced by

his secretary, captured on his road to Wales, and brought to trial (Sept. 28). He tried to obtain respite or pardon, by an offer to betray his confederates, if he might have speech of the king; but Edward refused to listen to his vile confidences, and sternly ordered that justice should take its course.¹ Escorted through the streets in a mock procession, and treated with every circumstance of dishonour,² he was sentenced to be dragged to the gallows and hanged in chains. Nothing is known that can extenuate the exceptional infamy of his conduct.

During the autumn and winter negotiations for peace, and preparations for war, went on side by side. English chroniclers claim, probably with justice, that Edward was willing to accept honourable terms, while Philip's pretensions were so extravagant, that the papal legates, who acted as mediators, did not dare to report them in England. In fact, Edward had everything to gain by peace, and Philip very little to lose by war. In the desultory campaign of small sieges and raids that went on under the earl of Cornwall in Gascony, the advantage seems, on the whole, to have rested with the English. But Edward reserved his real strength for Scotland. He knew, soon after it was made, of the secret treaty with France, and seems to have received a peremptory refusal to a second series of writs of summons, demanding military aid from the Scotch lords.³ Moreover the Scotch lodged an appeal with the pope, whose predecessor, Nicholas IV., had refused to sanction Edward's claim of suzerainty,⁴ and

¹ Brunne's Langtoft, p. 269.

² The statement in Cotton (p. 306) that he rode to Westminster between "his tormentors dressed like devils," is a little ambiguous, but perhaps implies that he had been tortured to

extract a confession.

³ Trivet, p. 339. Hemingburgh, ii. p. 90.

⁴ Raynaldi Contin. Baronii. ii. A. 1292, p. 13.

Celestine V. absolved Balliol from his oaths of homage and fealty. The situation was critical, and Edward was disposed to temporize, perhaps even to give way. He offered to remit his other claims, if the three frontier fortresses of Berwick, Roxburgh, and Jedburgh were put in his hands; and, if the Scotch would close their ports to French shipping. The terms were not extravagant, but public feeling in Scotland would not now endure them. At Berwick, where the rivalry of the two nations was kindled by neighbourhood and conflicting interests, there was a riot, in which all the English merchants were killed or driven out of the town. Throughout the kingdom preparations were made for war, and the estates of all who refused to render services were confiscated.¹ Edward now summoned Balliol to attend a parliament at Newcastle-on-Tyne, in March of the next year, and adjourned the further hearing of the Macduff case till then. Meanwhile, he ordered troops from England, Wales, and Ireland, to assemble at the same rendezvous. The Scotch nobles were not idle; within little more than a week Edward learned, that one thousand men, whom he had sent to reinforce Wick, had been surprised, and massacred or taken, by the perfidy of its late castellan, Robert de Ros, and that Carlisle was invested by a powerful force (March 26).² The king, with characteristic scrupulosity, thanked Heaven that his enemies had been the first to shed blood, and seems never to have understood, that his own exasperating legality had kindled the spirit of resistance

¹ Among these were the lands of Robert Bruce the Fifth, of Annandale, whose father, Robert Bruce the Fourth, the competitor for the crown

of Scotland, had died April 1, 1295.

² Robert Bruce, the Fifth, was at this time governor of Carlisle. Dugdale's Baronage, i. p. 450.

in a weak sovereign and a half-hearted nobility. As he advanced along the east coast the Scotch fell back, and he reached Berwick unopposed. The townsmen, ignorant of war, trusted in their numbers and strong castle, and defied Edward from the battlements.¹ The king commenced the siege by regular approaches; but his ships, mistaking a signal, sailed into the harbour and were roughly handled, three or four of them being stranded and lost. A general attack was at once ordered (March 30); the wooden palisades were carried with a rush, and the king rode over the ruins into the town. Only one Englishman of rank was slain, but the king was determined to make an example, and he directed that no quarter should be given. Thousands of the wretched citizens, men and women, were cut down in the horrible carnage that ensued.² Thirty Flemings who had barricaded the Red Hall, and held it gallantly till evening, were burned alive in it. At last a procession of priests ventured into the streets, bearing the sacred

¹ It is rather difficult to reconcile the taunts levelled at Edward by the Scots, who bade him "pike and dike," evidently referring to actual siege operations, with the description of the storm, when only a ditch and stockade have to be crossed. But the probability is, that Edward at first meant only to attack the castle, and altered his plans in the exasperation of seeing his ships burned. If so, it is some palliation of the massacre, that his first intentions were to reduce only the castle. Brunne's *Langtoft*, p. 273. Hemingburgh, ii. p. 98. *Annales Angliæ et Scotiæ*, p. 373.

² "More than eight thousand." Hemingburgh, ii. p. 98. "Sixty thousand." Matt. West., p. 427. "Like

the leaves in autumn," says the writer of the *Annales Angliæ et Scotiæ*, p. 374, who adds, that the corpses had to be thrown into the sea. "Many thousands." *Annales de Dunstapliâ*. "Twenty-five thousand seven hundred." *Chron. Mon. de Melsâ*, ii. p. 261. "Forty thousand, and there was none of them left quick." Brunne's *Langtoft*, p. 272. Trivet and Wikes do not mention any massacre. But their silence can hardly outweigh the distinct evidence of other writers, however loose some of the estimates may be. Hemingburgh's is probably nearest the truth, as the Scotch themselves seem to have stated their loss afterwards at under eight thousand. Greatest of the Plantagenets, p. 438.

relics and the host, and implored Edward to show mercy. Extravagant in his impulses, the king burst into tears and called in his troops. The men-at-arms under William Douglas surrendered the citadel, on a promise that they should receive no worse punishment than imprisonment. Partly as a military precaution, partly, no doubt, to gratify the English merchants, Edward resolved to sever Berwick-on-Tweed from the kingdom of Scotland. The remnant of its old inhabitants was expelled; it was turned into a fortress, and only the tradition of its former prosperity remained. The circumstances of its storm mark the growing deterioration of Edward's character. Such a massacre had not been witnessed within the four seas since the ravage of the north by the Conqueror. From this time a sea of blood lay between the English king and his Scotch dominion.

Before he left Berwick, Edward received a cartel, in which Balliol renounced his homage, and formally defied his suzerain. "Has the foolish fellow done this folly?" said the king, "if he will not come to us, we will come to him." Accordingly, though the Scotch marauders behind him were harrying with singular ferocity, mutilating women, and burning two hundred boys alive in a grammar-school at Corbridge,¹ he marched straight upon Dunbar, which had been delivered to the enemy. The fortress was of importance, and three Scotch earls with several barons were among its garrison, while

¹ Palgrave, Documents and Records, p. 149. As the date of this atrocity (April 8-11) was more than a week after the storm of Berwick, it may have been intended as reprisals. But the Scotch had begun by

giving no quarter, "sparing neither sex, rank, nor age." Hemingburgh, ii. p. 95, 101. They were below the English in civilization, and their leaders were men of no ability, who could not enforce discipline.

Balliol marched at the head of an army to relieve it. All the more significant were the rout of the relieving forces, and the surrender at discretion of the garrison. Edinburgh was next reduced, and Stirling and Perth occupied, by the English army. It is said, that Robert Bruce had been detached from Balliol's cause by a promise that he should receive the forfeited sovereignty; and that, after the battle of Dunbar, he obtained a conference with Edward and claimed performance of the promise. The king answered angrily, "Do you think we have nothing to do but to win kingdoms for you?" and the answer, if it be genuine, probably shows that no such compact existed. It was against Edward's policy to make any such agreement, and against his character to stoop to deliberate fraud; whereas, nothing could be more natural than that Bruce should be ready to serve against Balliol, or quick to beg the reversion of a forfeited estate to which he was next heir. Edward was, in fact, acting as he had done in Wales. He seized the mystic stone on which the Scotch kings were installed, and the black rood on which the most binding oaths were made. He even carried off the trinkets of the Scotch treasury. But, being irresistible, he could now afford to be merciful. He admitted Balliol to an abject submission, and pardoned the wretched man, on his assurance that his rebellion had been forced upon him by his peers. After an easy captivity of some years,¹ the discrowned king was suffered to retire to his French property. Nor was Edward less merciful to the Scotch nobles and gentry, some of whom might well have been called to account, by any one but the conqueror of Ber-

¹ "With a respectable household twenty miles out of town." Trivet, assigned him, and the right of going p. 351.

wick, for their barbarities at Corbridge. Except the traitor Robert de Ros, no one suffered in person or property, beyond a few months' captivity, for what Edward still regarded as a rebellion, and no one blushed to desert the cause of a king who had been untrue to himself. One by one, earls, barons, and gentlemen, gave in their homage and fealty to Edward, according to the most binding forms of Norman law.¹ Nothing was changed in Scotland but the executive. Four castles, garrisoned by English troops; four Englishmen administering the country as regent, justiciary, chancellor, and treasurer; an English exchequer at Berwick-on-Tweed; and the forced residence of a few Scotch nobles in England till peace should be made with France, represent the whole conditions imposed by the conqueror on the conquered. Only, behind this politic clemency lay the unabated claims to jurisdiction and service in the field.

Edward was now temporal sovereign of all Great Britain and Ireland, but a portion of his subjects acknowledged another supremacy. The clergy, suffering under a double taxation, and unable to devise the means of refusing tribute to Rome, applied to the pope for protection against their own countrymen. Boniface replied by a bull, excommunicating all rulers of any kind who should impose taxes on the Church, and all clergymen who should pay them (Feb. 24, 1296). The result soon showed itself. In the autumn Parliament,

¹ Mr. Burton remarks, "One thing is peculiar in these homages, that no reason is set forth why homage should be given." *History of Scotland*, ii. p. 275. A similar peculiarity may be observed in the letter recording the homage of the count of Katzen

Ellenbogen (1294), who took service under Edward against the king of France, but probably did not like to specify that he did it for money. The seigneur of Montjoye was less punctilious. *New Rymer*, vol. i. part ii. pp. 813, 820.

at Bury St. Edmund's (Nov. 3, 1296), it was agreed to give the king the eighth penny in all towns, and the twelfth from all lay lands. According to custom, the proportion due from the clergy was discussed, and it was fixed, on this occasion, at a fifth. But the aid could only be voted in convocation; and when this met, on the ensuing Feast of the Epiphany (Jan. 6, 1297),¹ the clergy unanimously agreed that it was out of their power to pay a tax. The king's commissioners refused to take back any such message, and the clergy were obliged to send it up by special deputies (Jan. 14). Edward's anger was great, but he acted with thorough legality and moderation. Till next Easter (April 14) the clergy might reconsider their vote, or make separate agreements with the crown. After that time, all who refused to contribute to the common taxation should be put out of the pale of the law. Meanwhile, their property was put under seal, and no churchman was summoned to the next Parliament at Salisbury (Feb. 24).² A portion, with several bishops among them, at once gave way, and contributed the required fifth, satisfying their consciences with the distinction, that to fine for the king's peace was not to pay a tax. But by far the greater number held out till the first days of out-

¹ *Annales de Dunstapliâ*, p. 404. Hemingburgh (ii. p. 116) makes Jan. 14th the date. But as the conferences lasted eight days (*Matt. West.*, p. 429), the later date is probably the day on which they broke up.

² *Bart. Cotton*, p. 320. Hemingburgh, ii. p. 121. *The First Report on the Dignity of a Peer* (p. 220) concludes, that if the persons summoned actually met, their proceedings were not considered as of authority to

bind the country. In the absence of clergy and burgesses (*Cotton* speaks of "milites," who, I suppose, were knights of the shire), the Parliament could not, of course, tax the unrepresented corporations, or make any innovation in ecclesiastical matters. But it could agree to a war, decree or refuse military service in Flanders, and take any measures for the regulation of the home government.

lawry, and then, terrified at their own position, compounded, at extravagant rates, with the treasury. In fact, so determined were the royal officers, and so well backed by public opinion, that the horses of the primate himself were seized, when he came to a conference with the king at Maidstone. The archbishop, Robert of Winchelsea, gave permission for his weaker brethren to do as seemed right to their consciences. He himself, with a tenacity worthy of a nobler cause, deserted by all his household, except a chaplain and a clerk, lived for several months in a country rectory, and obtained a meagre pittance from the alms of the faithful. Edward had won a signal victory, and he followed it by procuring a bull, in which the pope explained, that voluntary aids granted by convocation were not taxes. But the clergy had a just cause of complaint so long as they were taxed into two treasuries ; and as the popes became more and more the instruments of French policy, the national feeling of the estates devised means for wiping off a large part of the unworthy tribute.

Meanwhile, the interest of the war had shifted from north to south. By the capture of its gallant seneschal, John St. John (Jan. 12, 1297), Gascony lay at the mercy of the French, and the English clergy triumphantly pointed to God's judgment on a king, who took money from them. On the other hand, a strong English interest was growing up on the northern frontiers of France. The new earl of Holland was Edward's son-in-law. The count of Flanders had betrothed his daughter to Edward of Carnarvon. When Philip, alarmed at this alliance, took the lady into his own custody, her father, indignant at the outrage, appealed to the Estates to join him in an alliance with England. France was thus girdled by a league of enemies. The

opportunity was tempting, and Edward caught at it with passionate energy. Relying on the prestige of success to secure his people's support, he prepared two great expeditions for Gascony and for Flanders, intending to take command of the second in person. But as the expenses of these armaments could not be defrayed from his ordinary revenue, he tried new expedients for taxation by prerogative. By a late edict (1292), all who possessed £40 worth of land were compelled to take up their knighthood; the qualification was now reduced to £20.¹ The toll on wool was raised six-fold, from half a mark to two pounds a sack. The sheriffs of every county were ordered to raise forced contributions of cattle and corn. But the English nobles shrank, not unreasonably, from the prospects of an European war. They were prepared to serve in Gascony, if the king would go with them, but not in Flanders, to which their tenures did not oblige them.² Bohun, earl of Hereford, and Bigod, earl of Norfolk, the king's constable and marshal, headed the opposition. "By God, earl," said Edward to Bohun, "you shall either go or hang." "By God, king," answered the earl, "I will neither go nor hang." The Parliament broke up in confusion (Feb. 24), and the earls held an informal Parliament of their own in Wire Wood. When the time came to attend the

¹ New Rymer, vol. i. part ii. p. 758. Trivet, p. 354.

² Hemingburgh's statement (ii. p. 121) that the nobles refused to serve in Gascony is certainly a mistake. Matthew of Westminster says (p. 429) they were very willing to go there if the king would go with them; and in the counter-memorials on either side it is always Flanders, and not Gascony, that is mentioned as the

country in which they would not serve. The principle was an important one. Anciently, service had been only within the realm. Under the Norman kings it had been extended to defence of the king's possessions anywhere. The requisition to serve in a foreign country was against all principles of feudal law, and Edward himself did not dare to enforce it.

summer Parliament in London (July 8) which was to precede the embarkation, the earls first requested, that others might be appointed in their place; and, when this request was complied with, circulated, and perhaps sent in, a statement of grievances.¹ They were not bound to serve in Flanders; they had suffered heavily from forest laws and illegal taxation; they dreaded the king's absence at a time when there were fresh troubles in Scotland; and they prayed that he would redress their wrongs. Edward had taken the precaution to be reconciled to the archbishop. He met his barons and knights at Westminster (July 14), and, standing on a step in the hall, with the primate and earl of Warwick at his side, he addressed his vassals in a speech broken by tears. It was true he had taken their substance from them with no due warrant of law, and he craved their pardon for the offence; but he had done it to save them from enemies who were thirsting for their blood. "I am going now to risk my life in your behalf; if I return, demand justice of me here, and I will restore all I have taken." The primate wept aloud; and the meeting was carried away by the impulse of the moment, and voted for war, and for giving the king an eighth. In return for this the Great Charter was to be guaranteed again. Edward hurried his followers to the sea-coast, leaving the earls to an inglorious residence in

¹ Trivet, says (p. 360) that this memorial was sent to the king shortly before his embarkation. In his letter of justification, Edward alludes to a report that the earls had shown him certain articles, and that he had rejected them. He denies that they sent in any memorial; but he evidently knew what the purport of

the articles was, and his speech at Westminster was an answer to them. Probably the formal sending described by Trivet was the reply of the earls to this rescript; especially, as the king had alluded to men who sow distrust between sovereign and subject.

England,¹ while he issued a rescript from Udimore, near Winchelsea (Aug. 12), promising redress for all grievances on his return, praying his people to support him, as they saw that he did not spare his body or wealth to relieve the common sufferings, and threatening all who should trouble the peace of the realm with the penalties of the law and the last sentence of the Church. Edward had broken the constitution, threatened force as long as it could be employed, and was now staking the whole resources of the realm upon a war of doubtful policy. He had been at first thoroughly wrong, and the earls absolutely in the right. But the king's greatness of nature carried him through every difficulty. He could demand confidence, for his people knew that he did everything for England; he inspired trust, for he never broke his word; and between a king risking captivity or death, and two nobles refusing the service which thousands of meaner men rendered, public opinion pronounced emphatically for the sovereign. He carried the nation with him through sacrifices that had no parallel in those times.

The result justified the king's previsions. His army was weak, and it was disorderly. In place of the great nobles who had refused service, or were employed elsewhere, were new men like Ralf de Monthermer, whose good looks had won him the king's daughter and the titular earldom of Gloucester,² and kinsmen like Aymer

¹ The appointment of Thomas de Berkeley and Geoffrey de Genevill in their places did not, however, divest the earls of their offices. Roger Bigod is summoned as Marshal of England to the Michaelmas Parliament of this year, as well as to subsequent ones. Report on the

Dignity of a Peer, Appendix i. pp. 87, 103, 105.

² Ralf de Monthermer, a simple knight from Durham, won the graces of Joan, countess dowager of Gloucester, and married her secretly within a year of her husband's death. Hemingburgh, ii. p. 70. The king

de Valence, or Scotch nobles disaffected at heart to the cause. The sailors of Portsmouth and Yarmouth quarrelled during the passage, and, as soon as they had disembarked the troops, engaged in a pitched battle, in which the men of Yarmouth were defeated, with the loss of twenty-five ships. The king's soldiers quarrelled with the Flemings whom they came to assist, and sacked the town of Damme, killing some two hundred prisoners of war who were in it,¹ an offence which Edward punished summarily with the gallows. Confronted by a superior French army, the king of England was obliged to fall back upon Ghent, and to be contented with paralysing the enemy's movements. But Philip saw that he had lost the chance of reducing a disaffected province to obedience, and that he now had to reckon with all Europe in arms. Germany, Holland, Flanders, Burgundy, and Savoy were in league with England. What was not an immediate danger might become so at any moment, and Philip for the first time was glad to negotiate. A truce was soon arranged (Oct. 9), which was to last some three months, and this, under the pope's mediation, was gradually prolonged till it became a peace. Within seven months after he landed in Flanders, Edward was able to return to England (March 14, 1298).

The constitutional quarrel had been settled during his absence in the happiest manner. The two earls

imprisoned him on finding it out, but now, being in difficulties, set him free, and gave him the title and honour of Gloucester during his wife's lifetime. Trivet, p. 358. He was a man of courage and capacity.

¹ "Two hundred picked men, who had first surrendered to our king at

his first coming" ("se primo dede-
rant regi"). Hemingburgh, ii. p.
159. Dr. Pauli renders this, "200
of the most respectable inhabitants."
Gesch. v. England, iv. s. 132. Per-
haps this translation is possible, but
I think it is not the most natural.

were not inclined to relax in their opposition. They issued a notice, that the eighth granted by the meeting at Westminster had not been sanctioned by the peers, was informal, and was not to be collected. The primate swayed back to the constitutional cause, threatening to excommunicate the royal collectors, and prince Edward, who acted as regent, after trying the effects of an acknowledgment that the eighth was irregular, and was not to be made a precedent, was forced to hold a Parliament and consent to a compromise.¹ By this, Magna Charta and the Forest Charter were confirmed, with the addition of several articles, in which the king renounced all prescription from taxes levied illegally, promised to raise none in future except by consent of the realm, and abandoned the additional export duty on wool; reserving only, as a perpetual source of revenue, the moderate tax granted at the beginning of the reign. Lastly, Edward was to remit his anger against all who had joined the barons' confederacy. In return, the Estates would grant him the aid of an eighth penny. It is scarcely wonderful if Edward hesitated for three days before he gave his assent to the new charter, by which all indeterminate rights of impost were abrogated. Happily he had no alternative but to comply. Out of ten English earls, only two were with him in Flanders, and two others serving him in England and Gascony.² The news from Scotland was of rebellion and

¹ New Rymer, vol. i. part ii. pp. 875-877.

² The two with him were, his son-in-law, the new earl of Gloucester, and his cousin, Aymer de Valence, heir to the earldom of Pembroke, though apparently not yet invested. The earl of Lincoln was commanding in Gascony, and the earl

Warene had just been driven out of Scotland. Thomas of Lancaster was still a minor. The remaining earls do not seem to have joined the army under Bigod and Bohun, but it is probable that none of them could be relied on to act against it. It is noticeable, that the earl of Arundel was summoned to

defeat. The Flemings were doubtful allies, and the princes of Germany mere mercenaries. Had Philip understood his position, it may be doubted if he would have agreed to a truce. It is said, Edward regarded his assent as of doubtful validity, because it had been extorted from him by force and subscribed in a foreign land. It is certain, that he exhausted every expedient to evade a public renewal of it in England. Once he forced his councillors to swear to his good intentions (1298), and once he gave the promised ratification (1296), with an evasive clause, reserving the rights of his crown and reasons of state. Only a second threat of rebellion induced him at last to give way, and his officers showed a suspicious repugnance to carry out the orders finally given. The renewal of the "Quo warranto" commission (1299), which had been suspended for five years, looks suspiciously like an attempt to gain in one way what was denied in another.¹ Worst of all was the attempt to procure a brief from the pope annulling the obnoxious statute. But something must be allowed to a king's horror of that public humiliation which was implied in a formal reversal of his acts, and something to the imperious necessities of his policy. The war with Scotland entailed heavy expenses, and the people, who shared their king's ambition, were scarcely justified in complaining of its cost. Anyhow, though he chafed under the obligation, and probably regarded it as unjust, Edward carried it out

Rochester with his retainers, to confer with prince Edward, the Sunday before the Parliament at London. This looks as if the prince desired to know what military force he could count on. But as the earl was not

present at the Parliament itself, he can hardly be set down as a royalist. Report on the Dignity of a Peer, Appendix i. p. 86.

¹ It sate for Cambridgeshire, but, apparently, not for any other county.

with tolerable fidelity. His one palpable violation of it, in 1304, took the form of an extra tallage on the crown lands and boroughs, which the nobles condoned for permission to act similarly by their own vassals. Nor did the king resent his opponents' behaviour. With the instinct of a consummate statesman, he preferred to conciliate the rival power in the State, and married a daughter, some years later, to Humphrey de Bohun's son.¹

Setting aside reasons of home policy, Edward's return had been matter of imperious necessity. His troops, a chance army without leaders or cohesion, had acted like invaders in the country they came to defend, and provoked a riot in Ghent, before their departure, which might easily have turned into a general massacre of the citizens or of their allies. The Welsh, who had especially provoked the quarrel, fought it out staunchly, and virtually saved the army.² The count of Flanders

¹ Dr. Lingard thinks that the surrenders of their estates and honours, which the earl of Norfolk and the next earl of Hereford afterwards made to the king, were the results of a systematic policy, to punish all who had taken part against him. (*History of England*, ii. p. 268). The same thing, however, had already been done with the king's most valued servant, the earl of Lincoln, and with the countess of Almarle (Dugdale's *Baronage*, i. pp. 65, 104), and as estates and titles were restored in every case, with simply a limitation to the direct heirs of the grantees, I suspect it was merely an attempt, at least in the three first cases, to apply the statute "*de donis conditionalibus*" to the peerage. The great lords might

easily be indifferent to the claims of remote kinsmen, and to the king it was important that earldoms should revert to the crown as often as possible. The principle had been the same in the case of the countess of Almarle, but the statute was not then passed. Trokelowe's statement (p. 74), that the earl marshal wished, by the surrender, to ingratiate himself with the king is not incredible. But he must have had reason to suppose that he would be no great sufferer by the transaction. After all, the most probable account is Hemmingburgh's (ii. p. 224), that he had quarrelled about money matters with his brother, and stipulated for a pension of £1000 from the king.

² Brunne's *Langtoft*, p. 295.

was forced to explain, that the English had plundered, violated, and murdered till the burghers were resolved to have satisfaction; and Edward, who dared not embark with a hostile population in his rear, paid a large sum to the town in compensation of its wrongs. The incident might have taught him that wrongs, which cannot easily be forgotten or endured, are almost inseparable from an armed occupation; and that the discipline, which his own presence had failed to enforce in Flanders, was not likely to be better observed under his lieutenants in Scotland. Nor was Edward's policy in his new dominion in itself temperate, or carried out with discretion. He was liberal in giving back lands to the nobles and gentry whom he kept with him and carried off into Flanders. But he tried to tax Scotland on the English scale; to repress the disorders of a rude country, the cattle-lifting and feuds that were almost part of its domestic economy, as rigorously as could be done in the heart of England; and to introduce English monks, and invest English clergymen with Scotch benefices.¹ Experience had proved that, while ecclesiastics were for Rome and their own order against the nation, they were also animated with the narrowest local patriotism against all who were born out of their own province or kingdom; and Edward calculated no doubt on this factitious loyalty, while he alienated the

¹ Thus the monks of Durham receive a pension of £40 a year from the exchequer at Berwick (Sept. 16, 1296); the brothers preachers receive letters commendatory to the Scotch government (Nov. 1, 1296); and one of the king's last acts, before shipping for Flanders, was to give Brian Fitz-Alan the power of representing Englishmen to Scotch bene-

fices. More excusable is the order to the monks of Jedburgh, that they shall take in and provide for Thomas de Byrdeley, a clerk lately mutilated by Scotch robbers. (Sept. 13, 1296). But it shows at how early a period English clergymen had become specially obnoxious. *Rotuli Scotiae*, i. pp. 33, 34, 37, 47.

hearts of the native clergy. While everything was thus done by the executive, and especially by the treasurer, Cressingham, that could irritate or aggrieve an impatient people, the guardian of Scotland, earl Warrene, was residing out of the country to escape its climate.¹ In his absence the soldiery were at once unemployed and uncontrolled, and they behaved with the licence of conquerors; while the constant reductions in their number, made by Cressingham's economy, weakened their efficiency, and filled the country with disbanded mercenaries. The people were ready to rise in arms, and only wanted a leader. Their native and Norman nobility was serving in Flanders, with a few exceptions of men like Robert Bruce, whose antecedents gave the king confidence in their loyalty. In default of the great territorial lords, a simple gentleman, William Wallace,² offered himself to the national cause. In a brawl with some English soldiers in Lanark, Wallace had killed his man, and was outlawed in consequence. By one story, horrible but not incredible, his wife, or mistress, having favoured his escape, had been put to death for it by the sheriff of Clydesdale; and Wallace never rested till he had slain the merciless judge, sir William Haselrig, in a daring attack by night upon Lanark garrison. For some time the outlaw seems to have kept the country, cutting off small parties of Englishmen. Then, as he acquired a name, he was joined by William Douglas, the former governor of

¹ Hemingburgh, ii. p. 127. His office and functions were transferred to Brian Fitz-Alan, on the 18th of August, when the Scotch revolt had become dangerous, and the earl

Warrene was wanted to command the army. *Rotuli Scotie*, i. p. 45.

² Younger son of Sir Malcolm Wallace, who owned the £5 fee of Ellerslie, near Paisley.

Berwick, a veteran, who would scarcely have served under a mere robber. From that moment Wallace was a national leader, and finding soldiers, wherever he went, among his countrymen, he drove the justiciary from Scone, and hunted the bishop of Durham over the border.¹ The bishop of Carlisle, apprehending that the younger Robert Bruce would join the rebellion, summoned him to council, meaning, it would seem, to arrest him. Bruce came at the head of a small army, made copious professions and oaths of fidelity, ravaged the lands of William Douglas, and then repenting, or seeing chances for the rebellion, held aloof from both parties in dangerous neutrality. Meanwhile, the general rising of the people had been joined by bishops and nobles, and the English were killed or driven out of the country everywhere. But when Henry Percy marched, at the head of an imposing force—the militia of all Cumberland—into Galway, the nobles, paralysed by dissensions, gave way almost without exception, and were admitted to the king's peace at Irvine (Aug. 10-20). Yet a few of the younger men still held by Wallace, who collected a large army, principally from the cities, while the nobles secretly urged him on with exhortations to persist. The king's instructions had been to make peace anyhow, and the only difficulties were, that his officers would not pledge themselves to a positive restoration of the old franchises of Scotland,² that the Scotch commons would not trust vague promises, and, perhaps, that Wallace

¹ Burton's *History of Scotland*, p. 285. Trivet (p. 356) and the *Chronica Rishanger* (p. 171) say, that he was sent into Scotland on a special mission to report as to the state of the country.

² Hemingburgh's words (ii. p. 134),

that "promises were made of future concessions, as it were, with certain expectation," seem to show that Edward's representatives were prepared to go almost every length, but had not full powers from the king to act.

and his chief adherents felt that they had gone too far to recede. Thus the two nations drifted into an internecine war, which Edward and his officers, as well as the first families in Scotland, from policy, if not from better feelings, were sincerely anxious to avoid.

The English army, under earl Warenne and Cressingham, found the enemy encamped near Stirling Bridge (Sept. 16). On the side of the invaders the utmost confidence prevailed, and Cressingham had dismissed the troops from Cumberland as an unnecessary expense.¹ It is to the credit of the English leaders that they were still willing to try the issue of negotiations. But the envoys, two Scotch noblemen, found Wallace animated by a noble confidence. "We have come," he said, "not for the blessings of peace, but to fight, that we may avenge ourselves and free our country. Let the English come up as they like, and they will find us ready to beard them." The Scotch position was secured by hills in the rear and flank, over which retreat

¹ The English troops actually engaged at Stirling are put by Hemingburgh at 1000 horse and 50,000 men, while Henry Percy is said to have taken back 300 horse and 80,000 picked men. At the same time there was an army in Flanders, another in Gascony, and large bodies of men were assembled under prince Edward and under the earls of Hereford and Norfolk. Wallace is represented as commanding 40,000 infantry and 180 horse. Next year, Edward's army at Roxburgh is said to have mustered 7500 heavy-armed men, and 80,000 infantry, almost entirely Irish and Welsh. The Welsh in particular numbered 40,000, though they were made drunk on two casks of wine.

Once for all, I must express my belief, that these numbers have not the smallest pretensions to accuracy, except for the heavy-armed soldiers. That over 130,000 fighting men could be supplied from the counties north of Humber, after they had furnished a contingent to three or four other forces, is in the highest degree improbable; that they could be provisioned, marshalled, or moved in those times almost equally incredible. It is evident that the loss of 5000 men, at most, completely paralysed the operations of the English general, and left the North comparatively defenceless till Edward's return. I suspect at least a third of the army fell at Stirling.

was possible, while in front it could only be approached by a narrow bridge and by a distant ford. Moreover, the Scotch, lying within a semicircle of hills, could close at pleasure upon any part of the enemy as it advanced. Nevertheless, in utter disregard of all rules of war, the English generals decided, in a disorderly council, not merely to attack in front, but to attack only by the bridge. The motive assigned was, not to divide their forces. But the natural result was, that, when a portion of the English army, streaming over slowly in a thin line, had pushed forwards within the fatal amphitheatre, Wallace descended upon them with the main body of his army, while a division, interposed between their rear and the bridge, cut them off from the forces behind. For a moment the English cavalry carried everything before them in a brilliant charge, the light Scotch horse flying in disorder. But an English captain, sir Marmaduke Twenge, looking round, saw that Wallace's spearmen had closed upon the English infantry, and were pressing them backward in a disorderly mass to the Forth. The battle was already decided, and Twenge himself was among the few who had crossed who escaped with life. He had the shrewdness and audacity to ride straight for the bridge, cutting his way, by favour of his armour, through the company that guarded the approach, and as soon as he was safe on the other side, earl Warrene, in a helpless panic, (having, it is said, been in the *mêlée* himself,¹) ordered the planks to be cut and fired, lest the conquerors should cross. Accordingly, the English who escaped death in battle were mostly drowned in the Forth, or killed by the

¹ "Primus pontem transiit comes dux Anglorum." Political Songs (ed. Camden Society), p. 171.

country people. Their numbers were estimated at one hundred heavy-armed and five thousand light-armed soldiery, the iron-clads being counted as the real loss. Cressingham was among the slain, and his body was flayed, in derision, by the infuriated Scotch. If the numbers commonly given are near the truth, earl Warrenne still commanded a superior force. But his troops were morally beaten; he himself was thoroughly unnerved; and he is said never to have drawn rein till he reached Berwick. The only soldier-like precaution he had taken was to leave sir Marmaduke Twenge in command of Stirling castle.

The victory of Stirling was the turning-point in the fortunes of Scotch independence. During nearly three centuries the Scotch had been defeated in every pitched battle by their southern neighbours, and the reluctance of the nobility to take up arms was, no doubt, chiefly caused by a sense that they were hopelessly overmatched. So tremendous was the superiority of trained soldiers in proof-mail, over mere yeomanry or townsmen in leather jerkins, that De Montfort, no mean general, had found no better use for the London citizens than to put them in a separate wing at Lewes, where they were instantly defeated, and he never cared to employ them afterwards. Yet even the London citizens, who often had armour, though they wanted discipline, and the English yeomen, who were just acquiring a terrible familiarity with the bow, would have found readier acceptance with a mediæval general than the lowlanders, armed with their long spears and javelins, or the swordsmen of the highland clans. Wallace deserves the high credit of having seen that position and tactics might neutralize his other disadvantages, and if it was his singular fortune to meet an opponent of

absolute incapacity, it was his merit that he knew how to use his chances. Favoured by a report of Edward's death, which decided waverers to join him, he now pushed on rapidly to the borders, found the town of Berwick evacuated at his approach, summoned Carlisle unsuccessfully, and retaliated havoc and carnage on the northern counties. It is some excuse of this raid, that its object was to procure food for the people of the desolated lowlands.¹ A story, which tells how the Scotch rifled a chapel where their leader was hearing mass, while his back was turned for a moment, the plunderers carrying off the very chalice and altar-cloth, adds, that Wallace attempted to punish the offenders, and complained that he could not enforce the discipline he desired. His conduct seems to contrast favourably with that of the earls under Balliol, inasmuch as no charge of wanton cruelty is substantiated against himself.² What we know of his policy is wise and states-

¹ Metrical Boece, iii. p. 166.

² The author of the *Greatest of the Plantagenets*, who couples the name of Wallace with that of Nana Sahib, says that all the English writers of the period charge Wallace with "forcing English men and women to dance naked before him, pricking them with lances and swords;" with "burning alive a whole school-full of boys," &c., and that Edward I. endorsed these charges in a formal letter to pope Boniface. I can find no sufficient warrant for these statements. Edward I. brought the second charge against Balliol's army, not against Wallace. New Rymer, vol. i. part ii. p. 933. Hemmingford, who commonly speaks of Wallace as "that robber," or "brigand," a phrase which has been applied

to very eminent Poles and Italians, nowhere connects him personally with any brutalities to unarmed people, or with any massacres; though he tells a story of two canons of St. Andrew's, who were brought before him and expected death, but were let off on paying ransom and promising never to enter Scotland again. Matthew of Westminster (p. 451) and the *Chronica Rishanger* (pp. 171, 226) bring the charge, but do not support it by specific evidence, and the former mixes it up with the unfounded accusation about a school. The other chroniclers say little on the subject, though the fact that English ecclesiastics were special victims of the rising has its influence on the histories of the time. Sir P. Gray merely says, that he burned all

manlike. He put forward the name of king John as lawful sovereign of Scotland, and took for himself only the title of guardian.¹ He tried to associate the clergy and gentry of Scotland in his government. He announced the recovery of Scotch independence to the nation's old allies on the continent. The Scotch nobles who had followed Edward to Flanders were induced to leave his quarters and take refuge at Paris. As a new man, and an adventurer, Wallace found it difficult at first to enforce his authority at home. Aberdeen, which, from its position, had escaped English jealousy and a foreign garrison, refused to contribute levies to the national cause. Wallace hanged some of the burgesses,² and the example proved an effectual

Northumberland. *Scalacronica*, p. 124. The *Chronicle of Lanercost* (p. 190) accuses him of making a sword-belt of Cressingham's skin; but the charge, if it be true, argues a low civilization rather than cruelty. Of four documents, issued by Wallace, that have been preserved, two are letters of protection. He saved a monastery at Alnwick from the flames, though the monks could not pay the stipulated ransom, (*Political Songs*, p. 174). It is true he was charged on his trial with setting fire to Dunottar church, and burning people in it, a reproach which comes with singular grace from the sovereign who burned the Flemings alive at Berwick. But as the indictment for felony could not be sustained, it was necessary to make the most of murder and sacrilege; and Wallace was, no doubt, responsible for the licence of his followers, if he could have checked it, or if he was wrong in resisting Edward. It remains to be proved that the burning of Du-

nottar church was anything more than an incident in the storm of a fortress in Fife; "that strong castle upon a rock of stone," as the Metrical Boece calls it. Such events, however deplorable, are not always easily avoided, and even Edward's precedent at Berwick might have escaped censure, if we did not know that he fired the Red Hall, when its surrender was merely matter of time.

¹ The writ for the expenses of Wallace's execution (quoted by Mr. Stevenson, *Chron. de Lanercost*, p. 523), says that "in contempt of the king he had falsely made himself be called king of Scotland throughout Scotland." But no chroniclers mention this, though several allude with great bitterness to his knighthood; and in the writs quoted by Hemingburgh (ii. pp. 145, 146) his name comes after that of Andrew de Moray. Perhaps the title may have been given him by his soldiers, who are said to have called him William the Conqueror.

² Tytler's *Scotland*, vol. i. p. 142.

argument. It is impossible to blame him for this severity; his government was an undoubted fact, and it represented a scarcely questionable right. If national existence be worth contending for, its assertors may surely claim to be armed with that right of conscription, which is freely exercised by every established government.

The English government was not absolutely inactive while Wallace was ravaging the north. Earl Warenne collected a fresh army (Jan. 20, 1298), which relieved Roxburgh from siege, and occupied Berwick as an outpost against future invasions. On the west Robert Clifford ravaged Annandale. But the king forbade any great enterprise till he should return from Flanders, and Wallace accordingly reduced Stirling Castle.¹ It was his last great success. By the end of June an army, such as Edward had never yet raised, numbering seven thousand five hundred horse and many thousand foot, partly recruited from Wales² and Ireland, assembled at Roxburgh, and marched northwards in search of the enemy. The policy of Wallace was to lay the country waste and avoid an engagement, and he carried it out so well for a time, that, although the king was partly victualled from England by coasting ships, the delay of a few days, which was occasioned by contrary winds, caused an actual famine in the camp, so that men died by hundreds. The king was marching upon Edinburgh, in the hope of finding supplies there, when the earls

¹ The Chronicle of Meaux (ii. p. 270) says, he seized sir Marmaduke Twenge at a conference. Hemingburgh (ii. p. 140), however, seems to refer it to earl Warenne's neglect to relieve it within ten weeks. Dundee, Montrose, Brechin, Dunottar,

Stirling, Dirlton, with two neighbouring forts, Ayr, and Lochmaben, were among the castles occupied by the Scotch.

² The *Annales Angliæ et Scotiæ* (p. 386) put the Welsh at ten thousand, which is not incredible.

of March and Angus¹ brought news, that the Scotch army was in the neighbourhood, in the forest of Falkirk, and intended to surprise him by a night-attack. Edward at once changed his route, and passed the night at Linlithgow, his men using their shields for pillows, and with their horses tethered at their sides. In this rough bivouac the king met with a serious accident, his war-horse, held carelessly by a page, stepping back on him and breaking two of his ribs; but he would not hear of surgery or delay. Next day the march was resumed, and the Scotch spearmen were first sighted on a hill near Linlithgow. Retreat for them, in the presence of the English cavalry, was impossible, and Wallace drew them up,² skilfully enough, on a slope of rising ground, protected in front by a bog, and on the rear by Callendar Wood.³ The spearmen were entrenched on the flanks in four great hollow circles, supported by the archers, who stood between them, and by the cavalry behind. It was evident that the Scotch horse could not stand a charge from the more numerous and better appointed English cavalry, but they might, perhaps, be trusted to come up for aid in an emergency. "I have brought you to the ring," was Wallace's pithy speech to his men, "do ye dance now, if ye will."⁴ For

¹ Mr. Burton thinks the charge against the two earls, of giving information against their countrymen, not proven. But the difficulty in Hemingburgh's text, to which he alludes, disappears in Hamilton's edition, where "Patricius S." is rendered "Patricius scilicet;" and it is noticeable, that both earls had received letters of thanks from prince Edward for their good services during the last year's campaign. *Rotuli Scotiæ*, i. p. 50.

² Bartholomew Cotton reaches the climax of statistical absurdity in estimating the Scotch at 260,000 infantry, and 2000 horse. Their army was pretty certainly smaller than the English, or Edward, with his forces weakened by the defection of the Welsh, would not have tried to surround it.

³ Brunne's *Langtoft*, p. 306.

⁴ This either was already, or became, a proverbial saying for men obliged to make the best of a difficult

a time the issue of the battle was doubtful. The first advance of the English was disordered by the bog, which could not be crossed; when they at last skirted it, their cavalry could make no impression on the Scotch spearmen, who stood like a wall of stone; and the Welsh, disgusted by punishment for a late brawl in the camp, went off in a body to a hill hard by, and waited the issue of events. But Edward understood the use of artillery, and, instead of wasting his strength in chivalrous charges, surrounded the Scotch with archers, who hailed arrows upon their ranks. The few Scotch bowmen could make no effectual reply, and were repeatedly cut down by English horsemen who rode in between the circles. Suddenly, a fresh body of English, led, it is said, by Robert Bruce the elder,¹ who took them by a path round the hills, issued out from the woods in the Scotch rear and assailed them. Then the cavalry, led by the Comyns, who were thought to be half-hearted in the cause as long as Wallace was in power, rode off in confusion, and the army and its leaders were left to their fate. The spearmen fought gallantly, and met worthy antagonists in the English yeomen, who attacked them in close *mêlée* with huge stones, while the cavalry picked off others with their long lances. At last, all order was lost, and the English knights rode in and out the crowd of lost men, cutting down pitilessly. The Welsh, seeing the day decided, rushed in to plunder and kill. Many Scotch

situation. See Political Songs (ed. Camden Society), p. 339.

¹ The charge is brought by Scotch authors. Fordun, p. 981. Metrical Boece, iii. p. 178. The elder Robert Bruce was pretty certainly on the

English side at this time, as on June 8 he received letters of protection from the king, on the ground that he was to accompany him into Scotland. Rotuli Scotiæ, i. p. 51.

gentlemen of good family, a Graham, a Steward, and a Macduff, witnessed, by an honourable death, that Wallace's cause was that of the nation at large, and that all her nobles were not like the great earls. The leader fought his way out at the head of a little body of men; and was followed in hot pursuit by sir Brian de Jay, the English master of the Temple, who paid the penalty of his daring with his life. But no other Englishman of rank fell; and the Scotch loss, by a low estimate, was put at more than 10,000 men.¹ The veteran army, recruited from the flower of the cities, was now a tale of the past. Wallace burned Stirling Castle in his retreat, that the English might not find a fortress to their hands. The very act shows that he was desperate. Abandoning his office of guardian, he went to the Continent, hoping, seemingly, that the king of France, or the pope, might interpose effectually for his country. But the day for such mediation was gone by.

Edward's victory was decisive, but it was almost profitless. The Scotch left him nothing but the possession of so much desolated land as his army could camp upon. There was still a national government in Scotland, with the younger Bruce and Comyn for guardians, and to which the bishop of St. Andrew's lent his support. The English nobles desired a division of earldoms and manors throughout the Lowlands, and were furious when the king invested an Irish vassal with the Isle of Arran. Their discontent took the form of refusing service, and the king was obliged to make them the desired promises in the autumn Parliament at Carlisle (Sept. 15, 1298).² Nevertheless, as the great

¹ Scalacronica, p. 125. More than 20,000. Trivet, p. 373. Chron. Mon. de Melsâ, ii. p. 271.

² Hemingburgh, ii. p. 182.

Scotch families kept a prominent member on each side, so that Comyn the father was thanked for his good services, while Comyn the son was in rebellion, it was certain that large confiscations could only alienate the men whom Edward was most anxious to conciliate. The small injustice, involved in his first assertion of suzerainty, had gradually dilated into a huge ambition, that would admit no modifications of vassalage, would listen to no excuses for opposition, revived national hatreds, and sustained itself by their intensity, hesitated at no carnage, made havoc the minister of justice, and proposed, as its final object, the disinheritation of a whole nation from its lands.

CHAPTER XIV.

LAST YEARS OF EDWARD'S REIGN.

PEACE WITH FRANCE. PAPAL INTERVENTION FOR SCOTLAND, AND ANSWER OF THE PARLIAMENT OF LINCOLN. REDRESS OF FOREST GRIEVANCES. CONQUEST OF SCOTLAND. CAPTURE, TRIAL, AND EXECUTION OF WALLACE. ORDINANCE FOR THE SETTLEMENT OF SCOTLAND. DOMESTIC OPPOSITION REMOVED. MURDER OF COMYN. CORONATION OF ROBERT BRUCE. ENGLISH PREPARATIONS FOR WAR. ROUT OF METHUEN, AND RUIN OF THE PATRIOTIC CAUSE. SEVERITY TOWARDS THE CAPTIVES, AND PENAL ORDINANCE FOR SCOTLAND. PARLIAMENT OF CARLISLE. DEATH OF EDWARD I.

AS long as Edward lived, the fate of Scotland depended on the complications of English and European politics. Even if the united people could have coped with their more powerful neighbour, the Lowland Scotch, who were the real combatants, and who were only aided by uncertain Highland allies, had no chance in a long series of campaigns. They might win single battles, but sooner or later they were overpowered in the field, and their country then lay at the invader's mercy. Accordingly, the peace between England and France, which pope Boniface VIII. mediated (June, 1298), in his private capacity as a friend to the sovereigns, was a fatal blow to the chances of Scotch independence. It stipulated, that the English possessions in France should be restored, that compensation should be made mutually for the damages

inflicted on trade, and that the alliance of the two crowns should be cemented by the marriage of Edward to the French king's sister Margaret, and of Edward's son to Philip's daughter Isabella. Of course, it was understood and implied, that neither sovereign was to assist his neighbour's rebellious subjects, and Scotch and Flemings were thus left to their fate. Fortunately for Scotland, nearly five years elapsed before the award was finally ratified by the two crowns (May, 1303), the French putting forward demands for the liberation of Balliol, which Edward treated as inadmissible; and Edward cautiously requiring complete restitution of every fortress that belonged to him, before he renounced the right of interfering in Flanders. During a portion of this time the French stipulated that the benefits of the truce should be extended to Scotland; and, so long as his relations at Paris were doubtful, Edward seems to have been hampered in his campaigns, and rather lost than gained ground for a time. Thus, in 1299, he could not relieve Stirling, which was obliged to surrender. In 1300 he took Caerlaverock,¹ but it was the solitary success of a campaign which cost him heavily in money and men;² and the country around him was still in the hands of guerillas. The campaign of the following year was equally without result. During the next summer there was a truce, and in 1303, when hostilities were renewed, Sir John Segrave, the English

¹ The *Chronicon de Lanercost* (p. 194) says, that Edward hanged several of his prisoners, but the Norman narrative, printed by Sir H. Nicolas, (p. 87), says, he gave them life and limb and a new garment apiece.

² The fragment called the *Annales Regis Edwardi I^{mi}*. relates several

unimportant successes of the English army (p. 440-445), but winds up by saying, that many nobles, finding their stay useless, and lacking money and the necessaries of life, went home, although the king refused them furlough.

commander, was surprised at Roslin (Feb. 24), it is said by Wallace,¹ and sustained a repulse which had almost been an overthrow. The engagement was reported abroad as a signal victory. Nevertheless, Edward's campaigns achieved the object of wasting the resources of a poor country, so that, when the war recommenced in earnest, Scotland was even less prepared for it than at first.

Meanwhile, the diplomacy of the Scotch envoys at Rome had succeeded in obtaining papal interposition. The first fruit of this was the liberation of Balliol (1299), whom Edward, probably glad to get rid of an occasion of useless controversy, consented to deliver up to the pope, with reservation of the English rights over Scotland from any possible papal sentence in Balliol's favour. By a last indignity, the deposed king's baggage was searched at Dover, and the crown, which he had not known how to guard, found secreted among his effects, was taken away, and offered up at the shrine of St. Thomas of Canterbury. Balliol retired to his French estates, resuming his title of king of Scotland,² though he never ventured again to assert it in arms. Scarcely had the order for Balliol's liberation been given (June 14), when Boniface addressed a rescript to the king of England (June 27), laying claim to Scotland as a fief of the Apostolical See. His proofs were not very convincing, as they rested chiefly on the fact, that Scotland

¹ The story is partly confirmed by Trivet's statement (p. 398), that the Scotch in this year began to make war again under William Wallace as captain. Fordun, however (p. 917), makes John and Simon Comyn the successful generals. It seems certain that Wallace had by this time reco-

vered from the discredit of the defeat at Falkirk, and was taking a prominent part in the Scotch war, though no longer as first man in the nation.

² He calls himself king of Scotland in 1302, writing to Philip IV. New Rymer, vol. i. part ii. p. 946.

had been converted by St. Andrew's relics, and on the previous decision of the papal see, that the primacy of Scotland rested with itself. But he made out a stronger case against Edward's claims of suzerainty, dwelling judiciously on the facts of Alexander II.'s reign, when the vassalage, if it was ever admitted, had certainly been a mere name. Finally, Edward's claims, if he had any, should be submitted to the pope. The papal letter did not reach Edward till the next year, when he was returning from Scotland (August, 1300). He laid it before a full Parliament¹ at Lincoln (Jan. 20, 1301), to which representatives of Oxford and Cambridge were summoned,² along with law-officers and clergy well reputed for learning, that they might advise the king on the extent of his rights. In this assembly two letters were drawn up. One from Edward recapitulated the English acts of suzerainty over Scotland from the time of Edward the Elder downward,³ bringing forward, amongst other evidences of the divine right inherent in the English crown, a miraculous sword-stroke, with which Athelstane, by favour of St. John of Beverley, had hewn a gap in a rock near Dunbar. The letter glossed skilfully over the facts of the Norham conference, representing the homage of Balliol and his nobles as a tribute to the justice of Edward's claims, and their

¹ It seems more than doubtful whether the representatives of counties and towns, though present for other purposes, were consulted about the king's foreign policy. First Report on the Dignity of a Peer, p. 241.

² Four or five from Oxford, two or three from Cambridge. First Appendix to Report on the Dignity of a Peer, p. 125.

³ In what is supposed to be an

earlier draught of this letter, enrolled on the Close Rolls, a long argument from the History of Geoffrey of Monmouth is inserted. It deduces Edward's claims from Brutus, the contemporary of Eli and Samuel. It does not occur in Hemingburgh, and was probably rejected by more critical, or more practical men, than the first compiler. Hemingburgh, ii. p. 196, note 1, by Hamilton.

rebellion afterwards as an act of wanton treason. Throughout this memorial, Edward's language was at once firm and temperate. The second letter, intended to represent the feeling of the English baronage, took a higher tone of remonstrance. The lords could not sufficiently express their wonder at the contents of the papal rescript. It was matter of notoriety, that the papal see had no rights over Scotland, and that, from the time of the Britons downwards, the suzerainty of Scotland had been vested in the English crown. The rights of the crown were those of the whole realm, and the barons would not permit the king, even if he wished it, to make unprecedented concessions to an usurped authority. This letter received the signatures of seven earls¹ and sixty-eight barons, present at Lincoln. Twenty-eight barons added their seals afterwards. The earl of Norfolk and fourteen barons seem to have refused to sign it. The small number of the dissentients brings the general unanimity into stronger relief, and shows how thoroughly Edward's schemes of conquest were endorsed by his people. For some unknown reason, the barons' letter appears never to have been sent;² and perhaps both documents were merely shown

¹ Or eight, if we include Aymer de Valence, who signs himself lord of Montiniac, but who is commonly regarded as having been uninterruptedly earl of Pembroke. It is noticeable, that the name of Roger Bigod appears twice, first as signing, and next as not having signed. I suspect the first mention of him is erroneous, and that the copyist has confounded him with Robert de Vere, who was summoned to this Parliament, but whose name does not ap-

pear in any list. The earl of Lincoln was absent at this time as ambassador at the papal court. The earl of Cornwall had died without issue in 1297. The earl of Umfraville was summoned to the Parliament, though he seems, as a Scotch earl, to have taken no part in the memorial. But it is clear the signatures were intended to comprise the whole English nobility.

² Palgrave, Documents and Records, p. cxxxi.

to the pope's representative, in this instance the archbishop of Canterbury, like a modern *communiqué*. Such a plan would be less compromising to the pope's dignity, and Edward had his own reasons for wishing to avoid a quarrel. But the letters thoroughly achieved their purpose, and from that time forward the right of England to settle its disputes with Scotland as it would was never contested at the papal court.

There is reason to believe, that Edward had purchased his barons' adhesion by concessions to popular demands. So strong a feeling had been aroused by the constitutional disputes preceding the expedition to Flanders, and by Edward's repeated delays in executing the forest charters, that the barons assembled at Stamford, with an army at their backs, prepared for a civil war.¹ The most important demand made was, that the great ministers of state should be appointed in parliament. It was felt, that so long as they were responsible to the king alone, they would only care to carry out his wishes and orders. But the times were not yet ripe for the change. Edward replied indignantly, that he would not submit to such dictation, as none of his subjects would endure

¹ Trivet (p. 379) and Rishanger (p. 198) speak of the parliament of Stamford as if it were distinct from that of Lincoln; and Hemingburgh says, that the parliament of Stamford was held in Lent, (February 15 to March 26), while the barons' memorial is dated from Lincoln, Feb. 12. It is possible that parliament was moved for convenience from one city to another, or, that the barons met first informally at Stamford; but the writs to the sheriffs order knights of the shire and burgesses to attend at Lincoln on the

20th of January; they were dismissed on the 30th, (Prynne, Records, iv. p. 42); and, as the persons specially interested in the disforestation, it is not likely that they were referred to a future assembly for an answer; or, that the matters at issue were settled after the answer to the pope. The king was at Lincoln as late as the 28th of February. New Rymer, vol. i. part i. p. 930. There are no rolls of parliament, or records of pleas, for any parliament of Stamford.

in the management of their own households.¹ On the matter of the royal forests, which existed in no fewer than twenty-four counties,² Edward gave way sullenly but completely. The perambulations, which had been ordered three years before, had been completed in the interval, and were now laid before the estates, while all who had any complaints to make were invited to attend. The result seems to have been, that large tracts were disforested, or withdrawn from the peculiar and stringent jurisdiction of the forest laws. The king revenged himself by depriving all residents in the new purlieus, as the disforested tracts were called, of the old rights of commonage, which had been their compensation for the diminished liberty of enclosing, unless they consented to live, as of old, under forest law. He also announced his intention of preserving, as strictly as he had ever done, on his own lands. As, however, no one wished for a war with the first general of the age, these concessions were accepted, and parliament closed its labours by granting a fifteenth for the war with Scotland. The clergy again refused their assent, unless permission from the pope should be obtained; but either the refusal was purely formal, or Boniface, who about this time levied a tenth for his own purposes, thought it expedient to interpose no obstacles.

In the spring of 1303, Edward at last saw all difficulties removed. The treaty with France only waited signature; the pope was occupied with troubles in Italy; the English estates were thoroughly reconciled to the crown. Edward summoned an overpowering army to

¹ *Annales Regis E. I^{mi}*, p. 460. Brunne's *Langtoft*, p. 312.

² Chester and Durham are omitted from the list as counties palatine,

and Berkshire, for some unknown reason. Among the twelve specified as having no royal forests it is curious to find Sussex.

Roxburgh (May 26), and, disregarding the Scotch borderers, who ravaged Cumberland behind him, he carried fire and sword through the whole country, penetrating even to Caithness. Debarred of all hope of foreign assistance, the Scotch nobles lost heart, and were only anxious to make terms. Two years before they had demanded that their lands in England should be restored, and the king had indignantly refused the request. They now stipulated only for the recovery of their Scotch estates, on the payment of reasonable fines, and Edward admitted them, by a general amnesty, to his peace. Probably the English earls, who had received grants of Scotch forfeitures, were bought off, or easily consented to renounce dangerous titles of doubtful value. John de Soulis, with a noble constancy, refused these terms,¹ and retired to die, beggared and free, in France; but there was only one exception to the king's clemency. William Wallace, who had taken part in the earlier negotiations, applied, like others, for the king's grace, and for permission to hold the lands he had acquired. The expression points to transactions now unknown, by which his services had been rewarded with manors, so that he was nominally, at least, an estated gentleman. But Edward would not recognize the titles derived from war against himself, or could not bring himself to pardon the adventurer, who had held all the force of England at bay. He would only agree, that Wallace should come in and make his peace, that is to say, should make unconditional submission, with the understanding that he should be tenderly handled.²

¹ Scalacronica, p. 127.

² "And as to Monsieur William le Waleys, it is granted, that he put himself upon the will and the grace of

our lord the king, if he think good." Riley's Pleadings, p. 370. The words, I think, clearly imply, that the king will admit Wallace to

Wallace refused these terms, and was proclaimed an outlaw with a price set upon his head. The Scotch nobles made a formal submission at Strathorde (Feb. 9, 1304), and the conqueror afterwards taxed them by a graduated series of not exorbitant fines. They obtained easier terms than were given to the English rebels by the award of Kenilworth. There was no alloy of smallness in Edward's character. Long after the Scotch government had submitted, a troop of gallant men held out in Stirling Castle against all that English artillery, and troops fighting under their sovereign's eye, could do. Edward himself, exposing his person freely, was repeatedly in danger of his life; and was driven to such straits, that he had to strip the churches of St. Andrew's and Brechin of lead. He forced the garrison to surrender at discretion (July 24, 1304), but admitted them to an interview, allowed himself to be melted by their prayers, and inflicted no penalty upon them beyond imprisonment for a time. The rules of modern warfare are less merciful to a garrison, that defends an untenable fortress after peace has been declared.

Unhappily for Edward and England, the measures taken to apprehend Wallace were crowned with a fatal success. By the late peace Wallace was debarred his old refuge in France, which perhaps had never been thoroughly secure, if it be true, that king Philip once offered to arrest and send him to England.¹ After a

mercy, though he will not promise him terms; otherwise the expression "accordé," "granted," would be mere irony, and quite misplaced in a formal document. Apparently, therefore, Wallace had not com-

mitted any unpardonable crimes in 1304.

¹ The *Annales Angliæ et Scotiæ* (p. 387) say that in 1298, when Wallace first came to the continent, the king of France imprisoned him at

long vagrancy in the moors and fens, where he supported himself by plunder, Wallace incautiously ventured to Glasgow, and was taken in the house of his mistress, through the treachery of his servant, Jack Short, who bore a grudge against him for the death of a brother.¹ The earl of Monteith, then governor of Dunbarton, and one of the few Scotch nobles who had served Edward with fidelity, shares with his brother, sir John Monteith, the discredit of a service to his country's enemy against his country's defender. The large rewards showered upon the captors, and the strong escort under which Wallace was hurried through the lowlands, attest the importance which Edward attached to his capture.² Faithful to his maxim, that he would not see any to whom he would not show grace,³ the king sent his great antagonist to London (Aug. 22, 1305), where he was taken through the streets in a mock procession, like Turberville's, with a crown of laurel on his head, and tried by a special commission, consisting of three judges, the lord-mayor, and John de Segrave, the beaten general of Roslyn. By strict law, as soon as the fact of Wallace's outlawry was proved against him by record of the coroner's roll, he was to be hanged, and his pro-

Amiens, and offered to send him to England. The passage is unfortunately mutilated, and the story, if true, probably belongs to a later date.

¹ Brunne's Langtoft, p. 329.

² It is remarkable that, as early as 1302, Edward was scheming to apprehend Wallace, and sent a Scotch knight, Ralph de Haliburton, who had promised to effect the capture, under custody to Scotland, to help those men who shall be employed in

taking him. Riley's Pleadings, p. 279. On the present occasion sir John Monteith received land of £100 value; the servant forty marks; and the other captors sixty among them.

³ I think Mr. Bond's reading of "*ipsum aspicere nolens*," instead of "*volens*," (Chron. Mon. de Melsâ, ii. p. 275), is established by the context, and the Eulogium Historiarum has it (iii. p. 187). Edward seems to have been in Wales about this time.

perty forfeited to the crown;¹ but this summary process would not have suited English policy, which desired, before it slew its victim, to brand him as a felon. Accordingly, the forms of trial were preserved, and Wallace was indicted for treason, for murders and robberies, for sacrilege in churches, and for not having come to the king's peace. It is said Wallace answered to the first count,² denying that he was a traitor, as he had never sworn allegiance to the king of England. By the ideas of that time the defence was valid, for allegiance was a personal tie rendered in return for certain advantages, and which gentlemen at least might withhold at pleasure, so that Wallace was not necessarily bound by the acts of his countrymen. His refusal exposed him to forfeiture of his land, and might put him out of the king's peace, but did not make him a traitor. If, however, this plea were overruled, Wallace had no answer, as he seems, in fact, to have made none, to the other counts of the indictment. He had undoubtedly headed a war, in which men and women had been slain under circumstances of great ferocity, and churches plundered or burned by his followers. He had certainly not been worse, and had probably been more merciful, than the Comyns and other Scotch leaders; but he was not justified by ancestral rank in putting himself at the head of a national movement, and English pride could not forgive the mere squire, who had defeated nobles and knights with burghers and Highland kernes. To Edward and his people—as even to Philip of France, and perhaps to some Scotchmen of the day—Wallace

¹ Britton, c. xii.

² Stowe (*Annals*, p. 315) seems to be the first authority for this state-

ment; at least I cannot discover it in either Adam Murimuth or Thomas de la More, whom he cites.

was no better than a brigand, leading an armed rabble against their natural lords, and subverting the foundations of a political order more valuable to every statesman than a mere principle of nationality. Accordingly, the sentence pronounced, though it struck men who remembered better times as horrible, did not seem to them unjust. By a new refinement of cruelty, Wallace was not only to be dragged, like Turberville, to the gallows and hanged, but to be cut down while yet living,¹ and disembowelled. This atrocious sentence was actually carried out. Those who remember how Henry II. had spared the promoters of a wanton rebellion, how Richard had acted by John and his followers, how John himself had been compelled to plead at the bar of public opinion for the murder of the younger De Braose, and never dared to bring a rebel to formal trial, how Fawkes de Breauté was suffered to leave the country, and William de Marsh only hanged for complicity in rebellion and assassination, will understand what the clemency of our old judicial practice to all offenders in the rank of gentlemen had been, and how completely it was transformed under Edward into an impartial barbarity. The early lenity was perhaps excessive, but it did not demoralize like the executions, which are henceforth crowded thickly into the king's bitter old age. It is possible that Wallace's fame has been

¹ As far as I can understand Matthew of Westminster's description (p. 451), this was regarded as a new sentence, invented specially for Wallace; and I cannot discover that either David ap Griffith, or Turberville, was disembowelled alive. Dr. Lingard thinks there must have been special reason for the severity to Wallace, because he was the only

Scotchman hanged for the first war of independence. History of England, iii. p. 242. But no reasons are discoverable, except his low rank and conspicuous services to the Scotch; and Edward's conduct afterwards showed, that even high rank would not protect men who were charged with neither cruelty nor sacrilege.

better served by his death, than it could have been by his life. Though a man of rare capacity, who called the first army of independence, as it were, out of the earth, and who gave body and enthusiasm to the war, he was unfitted by position to command the allegiance of the great nobles, who could alone ensure success. He would probably have weakened Bruce by dividing the patriotic interest, or else have degenerated into a mere partisan leader. From the little we know of him, he was no faultless hero of romance, or absolutely without reproach among bloody and faithless men. It is probable that he permitted a savage licence, before he was sobered by success and a high position; and he seems to have lost heart in the last campaign, and to have wished to renounce a struggle which he was left to maintain alone. But these frailties, dearly expiated, cannot detract from the great facts of his life; that he was the first man who fought, not to support a dynasty, but to free Scotland; and the first general who showed that citizens could be an overmatch for trained soldiers; that no reproach of cruelty or self-seeking attaches to his term of government; and that the enemy of his country selected him as its first martyr.

The kingdom which Edward had won wrongfully, he was disposed to rule wisely and moderately. A Scotch parliament was held at Perth (May 28, 1305), which chose ten representatives from the three estates to confer with the king at Westminster (Sept. 15). Under the advice of these men, the king issued an ordinance for the future government of Scotland. His own nephew, John de Dreux, earl of Richmond and Brittany, was to be lieutenant of the kingdom, and, with the advice of his chancellor and chamberlain—both Englishmen—was to control the executive, and, if

necessary, remove the judges. The judges, eight in number, were to serve in pairs, for Galloway (1), Lothian (2), the Highlands (3), and the country north of Forth and east of the Grampians (4), and were mixed English and Scotch. Out of some twenty-nine fortresses, the eight most important¹ were consigned to Englishmen, the rest to natives. While the Keltic laws of the Scots and Brets, as they were called, were utterly abolished, the laws of the Scotch kings, from the time of king David downwards, were to be observed; but the lieutenant and his council were to make it their care to improve these, and amend such matters as were against God and reason. Matters of such weight, as to transcend the powers of the council, were to be submitted to the Scotch estates, who should send deputies to discuss the matter with the king. The English in Scotland were to swear, equally with the Scotch, to do all in their power to maintain peace in the country, by giving good counsel or informing against threatened disturbances: a provision which probably arose, not from any apprehension of disloyalty on the part of English officials, but lest they should connive at misdemeanour in their countrymen. At the same time the act of indemnity was published, and it was intimated, that the fines levied would probably be spent on

¹ Berwick, Roxburgh, Jedburgh, Edinburgh, Haddington, Linlithgow, Peebles, and Stirling. In three other cases the governor is said to be, "*celui qui est de fee*," and was presumably a Scotchman. To Auchterarder no one is assigned. In the remaining cases the names are either certainly Scotch, like McCulloch and Monteith, John of Inchmartyn and Wal-

ter de Berkeleye (who had fought at Dunbar), or at least they cannot be traced among the English landed gentry and officials. Except in the case of Lochmaben and Kildrummie castles, held by Robert Bruce, and Roxburgh and Jedburgh, held by the viceroy, the custodian was also a sheriff. Riley's Pleadings, pp. 504-507.

strengthening the Scotch fortresses, or for other national uses. By these ordinances the separate existence of Scotland was formally recognized, and the conquered country might congratulate itself that it was not merged into a province. The foreign element in the government was not offensively prominent, and it was evident that the work of assimilating the laws would only be gradually carried out. But the three chief grievances, against which nobles and commons had taken up arms, were in no sense abated by Edward's ordinance. The suitor might still be called to plead in Westminster, and the soldier to serve in Wales or Gascony, and the great towns were still garrisoned by an alien soldiery. It was a poor compensation that a few Scotchmen, like Robert Bruce, whose father had fought for England at Falkirk, or John Monteith, who had betrayed Wallace, were retained in the English service as the custodians of castles.

Nevertheless, it is scarcely wonderful if Edward regarded the work of conquest as complete, and chose the moment for dealing with domestic difficulties. He had not forgotten or forgiven the last armed remonstrance of his barons at Lincoln, when the disforesting charter had been extorted from him. The two earls of Norfolk and Hereford were no longer a difficulty. Roger Bigod had been bought over with a pension; the old Humphrey Bohun was dead, and his heir was the king's son-in-law.¹ There remained only the primate who could

¹ The statement of Matthew of Westminster (p. 452), abridged by Rishanger (p. 227), that Edward fined the archbishop and the earls of Norfolk and Hereford for their conduct in 1297, is almost certainly a

gross fiction. The old earl of Hereford had died in 1298; the earl of Norfolk and the new earl of Hereford had made arrangements with the king in 1302, by which they limited their succession in return

head opposition, and Robert of Winchelsea, from the first year of his consecration, had been the steady opponent of the king's policy; refusing taxes in convocation, annoying the royal officials with citations and processes,¹ threatening to excommunicate the king himself, and denying him the title of lord;² and at last organizing a plan of conspiracy, by which Edward was to be deposed and imprisoned, and his son crowned in his stead. The intention is strong evidence against the archbishop's purity of motive, for prince Edward's violent and licentious character was already matter of notoriety; he was disgraced in this very year for insulting a royal judge, and his chosen favourite was the worthless Piers Gaveston. It is significant, too, that Robert of Winchelsea was involved in several quarrels besides his feud with the king. He had a quarrel for precedency with the archbishop of York, and a lawsuit about presentations with the abbot of St. Augustine's, Canterbury. It is doubtful at what time the king first learned of the intended treason at Lincoln, but he probably knew it from the first, and kept the secret till he was prepared to strike. Then he told the archbishop that he was discovered, and Robert of Winchelsea, confounded and alarmed, made an abject submission, offering to fine for

for substantial advantages (see p. 403, note 1), and from that time forward they seem to have enjoyed the king's confidence. Any connection between these events and Winchelsea's disgrace, in 1306, is purely fanciful; though it is not improbable that the earl of Norfolk, who refused to sign the barons' letter to the pope in 1301, had, at that time, an understanding with the primate. Even if this be so, the distinction between

a punishment inflicted for the opposition, preceding the campaign of Flanders, and for that at Stamford or Lincoln, is very important, as Edward had promised to bear no grudge in the former case.

¹ New Rymer, vol. i. part i. p. 875. Palgrave, Documents and Records, p. 299. "Quoties scripsi tibi in visitatione clericos meos angarianti." Matt. West., p. 452.

² Thorne, c. 2005.

the king's peace, and ended by asking Edward for his benediction, Edward was not inclined to give it, or to remit his opportunity; but, not caring to embarrass his policy by trying the first churchman of the realm, he sent a special envoy to pope Clement V., who cited the archbishop to Rome, and suspended him from all his revenues for a year, (August, 1306). By the time this sentence was obtained,¹ the primate seems to have been implicated in the Scotch troubles, as his name is joined in Edward's correspondence with that of the bishop of Glasgow.² A few months earlier (Dec. 29, 1305) the pope had conferred a more equivocal service on Edward, by absolving him from the new charters against illegal taxation and for disforesting (Jan. 1305). The application, on the king's part, was dishonest, though he seems only to have kept the bull in reserve against future difficulties; and the pope, though he reserved the subjects' right by a single ambiguous clause,³ was curiously unpolitic in exercising his doubtful prerogative for the ruler against the people.

Meanwhile Edward's hopes of an undisturbed rule in Scotland had been rudely disappointed. From the

¹ Edward refers, in a letter of April 6, 1306, to a previous correspondence with the pope, on the subject of the archbishop's disloyalty, and, from an allusion to a late interview, in which the primate had implored his grace, it is probable that the interview was in February, 1306. This would explain the usual date assigned of 1305, the ordinary medieval year being dated from March 25. New Rymer, vol. i. part ii. p. 983.

² The expression, "concerning the matter of Robert, archbishop of Canterbury, and Robert, bishop of

Glasgow," seems to imply that it was one concerning both prelates. Blind Harry (p. 356) says, that the Archbishop gave Wallace absolution after Edward had forbidden it; and the story may, perhaps, rest on a tradition of the primate's sympathy with the rebellion.

³ "By this, however, we do not mean to take away any right that any inhabitants of the aforesaid kingdom might have in the matters enumerated, before the concessions of this sort made by thee." New Rymer, vol. i. part ii. p. 978.

moment that Balliol and Wallace, the representative of lawful succession and the champion of popular government, had been removed, nothing, except the foreign occupation, stood between the next rightful heir and the throne. As it happened, there were two claimants, with titles of almost equal validity in the public estimation. Robert Bruce, earl of Carrick and Annandale, was grandson of the Robert Bruce who had disputed Balliol's title, and, if the Balliol family were disqualified, was the undoubted next heir. But John Comyn the Red, lord of Badenoch, was next in succession to Bruce on the father's side, was nephew by his mother to Balliol, and was endeared to the Scotch people by his descent from the remote Donald Bane, the legendary hero of times when the Norman was not yet rooted in the land. Either lord had served his country with courage and fidelity during the late war, though the Comyns were slightly discredited by their suspicious flight at Falkirk, and Bruce by his father's unswerving loyalty to the conqueror. Nevertheless, the two men were now the forlorn hope of the national cause, and a sense of their position induced them, in the critical moment when Edward was just reducing Stirling Castle (June, 1304), to bind themselves, by a solemn covenant of mutual counsel, confederation, and support, in all future emergencies. Only the bishop of St. Andrew's joined them in the perilous partnership. The compact was undoubtedly meant to hold the contracting parties in spite of any terms to which the king might admit them. When, however, the final settlement had been made, Comyn seems to have conceived himself bound by it, or, perhaps, was satisfied with Edward's policy and doubtful of the chances of a rebellion, or jealous of Robert Bruce's influence and ambition. Accordingly, when Bruce sug-

gested a fresh rising, Comyn not only declined it but gave information of it to the king, and forwarded the old covenant in evidence.¹ There was other reason for suspecting the earl of Carrick. Having rendered good service to Edward in the months first following his capitulation and pardon,² he had been consulted as to the new Scotch constitution, and had gone as royal commissioner to the Estates at Perth; but his name was not among the ten deputies who were to consult with the king on the ordinance, though it had been difficult to find an acceptable man of rank.³ He still garrisoned his two castles of Lochmaben and Kildrummie. His friend and late colleague, the bishop of Glasgow, was in suspicious concert with the disloyal English primate. It is scarcely wonderful if Bruce was summoned to explain his signature to the bond, which was of a kind that the late ordinance had especially denounced as dangerous. Questioned angrily by the king, Bruce found a pretext for delay in not having his seal about him, which was wanted for comparison, or perhaps in pointing out that it was not affixed to Edward's copy of the indenture.⁴ That evening he received warning, it is said, from the king's nephew, the earl of Gloucester,⁵ that Edward had

¹ The presumption in favour of this is very strong, not merely because Scotch writers, like Robert Barbour (p. 20), and Fordun (p. 993), state it, but because the document has been preserved in the English archives. Palgrave, Documents and Records.

² Mr. Stevenson quotes a letter from the king, of March 3, 1304, praising Bruce for his services. Chron. de Lanercost, p. 409.

³ One of the nobles actually nomi-

nated, the earl of March, was disallowed by the king, and another named in his place. Riley's Pleadings, p. 503.

⁴ Palgrave, Documents and Records, p. 324.

⁵ If Fordun's story has any foundation in fact, the friend can hardly have been Ralf de Monthermer, actual earl of Gloucester, who shortly afterwards obtained, and had probably applied for, the honour of Anandale. But Gilbert de Clare had

dropped threats of taking his life. The only chance of safety was in escape, and Bruce fled so rapidly, as to arrive in Scotland before the order for his arrest could be brought by the king's messenger. He assembled a few of his friends, told them of his position, and sent a message inviting Comyn to meet him in the church of the Gray Friars at Dumfries (Jan. 29, 1306).¹ The English judges were then sitting there in assize, and Comyn was probably in the town on legal business. After the first words of friendly greeting in the cloister, Bruce produced his own copy of the bond, taxed Comyn with treachery, and asked if he would make amends by supporting his old confederate in the struggle for life and royalty. Comyn positively refused, and Bruce, who had come resolved to win back an ally or do justice on a traitor, at once stabbed him where he stood. Yet his passion was short-lived, and he flew hastily and horror-stricken from the spot, telling the friends who questioned him, "I doubt I have slain Comyn." All had foreseen such an issue, and the only feeling was that it must not be left doubtful. A Kirkpatrick rushed in, "to make sikkar," as he said; Comyn was dispatched on the ground,² and his uncle, who tried

some reason to dislike his grandfather, who had given away his earldom, and illegally taken his socage lands into wardship during his minority; while his uncle, Thomas de Clare, had contracted a treaty of the most binding kind, in 1286, with Robert Bruce's father. Dugdale, indeed, says that this Gilbert de Clare was styled earl of Gloucester conjointly with his step-father, and though I cannot verify this, I see no difficulty in supposing that the family title might be loosely given him be-

fore it was legally his. Riley's *Pleadings*, p. 371. Dugdale's *Baronage*, i. pp. 216, 217.

¹ Trivet, p. 407. *Chronica Rishanger*, p. 229. *Matt. West.*, p. 453. Hemingburgh (ii. p. 245), gives February 10 as the date.

² Hemingburgh's story (ii. p. 246) that Comyn was dragged from the church porch and killed on the altar steps, by order of Bruce, after the town had been won; and Matthew of Westminster's (453), that he was killed by Bruce himself on the altar-

to rescue him, killed at his side. There can be no reasonable doubt that the crime was, to some extent, premeditated, as one in which lay the only hope of safety for a betrayed and desperate man. Comyn could not be left free to make war against his old associates, and none of the party could foresee the panic of all around which followed the murder, so that a mere handful of men, like Bruce's party, could occupy the town, besiege and capture the judges, and retire unmolested across the country. But the provocation, the sense of outraged trust and personal danger, the quarrel, and the subsequent remorse, serve at least to extenuate an act, which was no sooner committed than repented, and which is the one dark stain in a noble life.

For Bruce, at least, there was now no hope of safety but in war. The one question was, to know whether or not he would be supported by his countrymen as the national candidate. The Scotch nobles and gentry were already sickened of English rule, and they rallied around the new leader with a heartiness which they had never shown to Wallace. Within two months Bruce was formally installed king on the mystic stone of Scone, in the presence of five earls, four bishops, and a large gathering of meaner men. Of the five earls, one was probably his own nephew, the boy earl of Mar, unless Malise of Stratherne's story of homage refused and extorted forcibly some time after the coronation, was a mere fiction to save his life, as Edward, who put him in prison,

steps in the first scuffle conflict with one another, and are contradicted by Langtoft (p. 330), as well as by Fordun (p. 996,) and the Metrical Boece (p. 199). Trivet (p. 407), the *Chronica Rishanger* (p. 229), the

Chronica de Melsâ (ii. p. 276), and Barbour (p. 23), speak of Bruce as killing him, but the expression is probably used loosely by men wishing to economise words.

seems to have believed.¹ But the earls of Lennox, Athol, and Monteith,² the latter concerned in Wallace's capture, and two veterans of high reputation, sir Simon Fraser and James Douglas, were cordially on the side of a patrician candidate. Macduff, the earl of Fife, to whose family it belonged to crown the Scotch kings, was absent in England, and might have scrupled to assist, as his sister was married to a Comyn, earl of Buchan. But the countess of Buchan, fascinated, it is said, by a guilty love for Robert Bruce, rode off with her husband's horses to the coronation, and placed the magic circlet upon the new king's head, two days after the first ceremonies had been performed (Sunday, March 27). Amid the general rejoicings a single voice of warning was raised. "Thou art henceforth queen of Scotland, and I king," said Robert Bruce to his wife. "I fear," said Aymer de Burgh's daughter, "we are

¹ Palgrave's Documents and Records, p. cxxxix. He appears to have come in and surrendered after Methuen.

² Hemingburgh says (ii. p. 247) five earls were present, and Matthew of Westminster (p. 453) speaks of several. The instrument recording the fates of prisoners enumerates Alan, earl of Monteith, John, earl of Athol, the infant heir of Mar, and the earl of Strathern, who, however, professed to have been captured and forced into complicity by Bruce, as it would seem, at some time after the coronation. Palgrave, Documents and Records, pp. 319-322. Besides these, the earl of Lennox is mentioned by Matthew of Westminster. The fifth was probably the earl of Sutherland. (Douglas, Peerage of Scotland, p. 661). Of the remaining five Scotch earls (exclud-

ing Bruce), the earls of Angus and Ros were more English than Scotch, and the earls of Buchan and Fife were connected with the Comyns. The earl of March, Patrick of the Black Beard, who died in 1308, had served Edward in the first war against Balliol, and in the second against Wallace, and seems to have held aloof from Bruce's rebellion, as his lands were never confiscated by the English government. Rot. Scotiæ, i. p. 59. Of the four bishops whose presence Hemingburgh records, the bishops of Glasgow, St. Andrew's, and Moray were probably three. The latter is mentioned in a rescript of Edward's, (demanding him, when he fled to the Orkneys, from the king of Norway), as having in some way consented to Comyn's murder. There were ten Scotch bishops in all.

only playing at royalty, like children in their games." But if Mary Bruce cared less for the royal crown than for the bitterness of a rival's presence, or was at heart loyal, like her father, to England,¹ there were many—even Englishmen—who were carried away by the impulse of the new adventure. A Conyers assisted at the coronation, and the Northumbrian Setons, who were allied by intermarriage with the Bruces, dedicated their lives and fortunes to the mock-king, as he is styled in English chronicles.²

Edward seems from the first to have understood the importance of Bruce's rebellion. Before the tidings of the coronation had reached him, he sent intelligence of Comyn's murder to the pope, and obtained a bull excommunicating the earl of Carrick. It would seem that John of Dreux had never entered on the functions of his lieutenancy, or at least was absent from Scotland at the critical moment.³ The lieutenancy was transferred to Aymer de Valence, who marched North with a picked army, intended rather to watch the enemy and relieve the English garrisons than to conduct a serious campaign. The king meanwhile prepared for hostilities on a grander scale than his people had as yet witnessed. The young nobles and gentlemen of England were invited to take up their knighthood at the approaching Whitsuntide with prince Edward, and

¹ As soon as the earl of Ulster heard of the rebellion, he sent over his two sons to Edward as hostages. Hemingburgh, ii. p. 249.

² Two Lovels, apparently connected with John Lovel of Titchmarsh, in Northamptonshire, were also among the first captives. New Rymer, vol. i. part i. p. 995.

³ I infer this from a letter of Edward's, written in May, 1306, to John, count of Dreux, then apparently at Lyons, to assure him that any report he may have heard of the king's speaking angrily about him was without foundation. New Rymer, vol. i. part i. p. 986.

the king promised to defray their expenses on the occasion. Two earls and two hundred and forty of knightly rank answered the appeal.¹ When the ceremonies had been performed (May 22), while the king sate at table among the new knights, a company of minstrels entered the hall, and invited the young brothers in arms to illustrate the day of their baptism by the vow of some noble enterprise. Edward spoke out first, and swore, upon two swans that were placed before him, to take vengeance upon Robert Bruce for the outrage done to God and to God's Church; this vow, once accomplished, he would never again bear arms against Christians, but would set out to die in the Holy Land. Prince Edward followed by pledging himself never to sleep two nights in the same bed till he reached Scotland, in furtherance of his father's vow. The enthusiasm was general, and all England united with its king, and adopted his schemes of ambition, in a horror of treason and sacrilege. The merchants granted a twentieth; the rest of the kingdom was assessed at a thirtieth (May 30). Comyn's murder had been a grave political mistake. It did not excite much horror even among Englishmen in the lawless North, but south of Trent it was viewed as a crime, which God could never pardon, and which man was bound to avenge.

At first Aymer de Valence found, on his arrival in Scotland, that he could not take the field against the new king, who was traversing the country in every direction, receiving homages and enlisting troops. The English general accordingly threw himself into Perth,

¹ Trivet, p. 408. Matthew of Westminster (p. 484) says 300. Even the larger number does not imply a very great yearly average of

knights; certainly not the 2000 whom the popular estimate of 60,000 knights' fees would require.

and awaited the approach of the Scotch army. It came up in good order and numerous, but with so many in its ranks who were without defensive armour, that Bruce had ordered all alike to cover themselves with linen smocks, which concealed their poverty. Nevertheless, all were eager for battle, and the earl of Pembroke, at once unwilling to refuse and afraid to consent, was glad to adjourn a decision by the pretext that it was a Sunday (June 26). When, however, the Scotch withdrew, an English council of war decided to violate the agreement and surprise the enemy. A sally was made in the evening, with complete success. Bruce himself was three times thrown from his horse, and only escaped with his life through sir Simon Fraser's gallantry; and it was said also through the mercy of his Scotch captor, John de Haliburton, who recognized him and let him go. Many hundreds fell in the rout of Methuen, and the disorder was so complete, that the English pursued the fugitives to Kildrummie castle, where Robert Bruce himself was believed to be. Animated by this expectation, the English pushed the siege vigorously; but, on storming the castle, only found the queen and Nigel Bruce. Unhappily, captives of rank were brought in every day. Sir Simon Fraser was captured in his flight from Methuen; the earl of Athol in a church, where he took refuge from Kildrummie; Bruce's brother-in-law, Christopher Seton, and two younger Setons, in Lochdor castle. The bishop of Glasgow and the countess of Buchan were among the captives of Methuen. The bishop of St. Andrew's had surrendered himself to the English government, while he sent his retainers to fight on the national side. Robert Bruce was still at large, but he was almost companionless. He made a last effort to surprise Henry

Percy in the king's old castle of Carrick. Such a hostage would have been doubly precious at the time; but before the fortress could be reduced, it was relieved by an English detachment. Bruce grew furious at the general defections from a hopeless cause, and took stern vengeance upon all who made peace with the English government. In Galloway, where he had fewest adherents, he expiated his anger bitterly. When his brothers, Thomas and Alexander Bruce, landed with a body of Irish auxiliaries in Galloway, they were surprised in a night-attack by Dougal Mac-Dougal (Feb. 10, 1307), and almost the whole force taken or destroyed. Some of the leaders were executed on the spot, and the two Bruces sent prisoners to Edward. Bruce resumed operations in person, at the head of an army of outlaws, whose lands had been confiscated, and of recruits from the Western Isles. He even won a victory over the English army at Loudon Hill, and besieged the earl of Gloucester in Ayr castle. But the mere appearance of a Scotch army was the signal for larger forces to be poured in from England. The earl was relieved, and Bruce, without money or a regular government, could not keep his forces in the field. (Feb. 1307). Within a year of the battle of Methuen, the new king was a fugitive in the Highlands, fighting his way with a few men-at-arms through clans whose chiefs were in alliance with the English; at times utterly forsaken, tracked by blood-hounds, and repeatedly owing his life to a quick brain and a resolute arm. Never king served rougher apprenticeship.

As Edward grew older, his devotion to the Church increased, his moral sense grew blunter, his temper more violent. The punctilious regard for legality, and the passion for prerogative, which had always been

strangely blended in his disposition, were fused, as his will triumphed over all opposition, into a habit, that sometimes became a frenzy, of imperious statesmanship. When his judges recommended to mercy a baron, who had deserted the king's service that he might fight an enemy who called him traitor, Edward was indignant that they should encroach on the royal prerogative of pardon, vowed that he had no more regard for them than for a dog, and yet commanded that the decision should be recorded.¹ "Never man asked mercy of me and was refused," he once said; but he took excellent care that no one whom he intended to hang should have the opportunity of asking mercy. He was now an old man of nearly seventy, debarred from exercise, and harassed by a painful disease; and, having done much and deserved well, he was yet foiled of his great prize in the last moments of his life, and about to bequeath a struggle to his nerveless successor. It is certain that the king's anger was at times so violent as to border upon insanity. When his own son, soon after his knighthood, petitioned that his playmate and unworthy favourite, Piers Gaveston, might be made an earl, the king, not satisfied with refusing the request, seized prince Edward by the hair, tore handfuls of it out, and thrust him out of the chamber, with every circumstance of insult.² These paroxysms of a diseased mind must be taken into account, if we would understand how the just sovereign, who counselled mercy after the barons' war, who spared all but three Welshmen, after rebellions less justifiable, and wars even more ferocious, than those of the Scotch, and who refused to listen to Turberville's denunciations, seemed only to

¹ Matt. West., p. 450.

² Hemingburgh, ii. p. 272.

thirst for blood during the last year of his life. One by one, the noble company of Scotch patriots passed away from a short captivity to the scaffold or the gallows. The queen and the English nobles interceded for the earl of Athol, who claimed kindred with royalty through descent from an uncle of Edward's.¹ "His only privilege," said the king, "shall be, to be hanged on a higher gallows than the rest, as his treasons have been more flagrant and numerous." The earl was further suffered to ride to the place of his execution; but it was his only privilege, and he was disembowelled while yet alive. The same miserable fate was inflicted on sir Simon Fraser, on sir Herbert Norham and his squire, on Nigel, Thomas, and Alexander Bruce, and on Christopher Seton and his two brothers. Six others of less note, including Bruce's marshal, standard-bearer, and chaplain, suffered in the blood-bath of Berwick, where the prisoners taken at Methuen were tried and sentenced. But, in fact, one

¹ As the earl of Athol, John de Strathbolgie, is styled "*proximus parens domino regi Angliæ*" by Hemmingburgh, (ii. p. 250); while the more cautious chronicler of Meaux (ii. p. 278) merely says, that he called himself the king's cousin, the question of his pedigree becomes of some importance. Douglas, in the *Peerage of Scotland* (p. 46), says his mother was Isabella, daughter of Richard, natural son of king John; while sir T. Gray calls him cousin to the king of England, "*Fitz Maude de Douvre sa tante*." (*Scalacronica*, p. 131). Richard de Chilham, natural son of king John, married Rohesia de Dover, and left at his death several daughters. Stapleton, *Rot. Scac. Norm.*, ii. p. cv.; *Excerpta e Rot.*

Fin., i. p. 252. The *Testa de Nevil* (p. 348) speaks of an Isabella de Dover as a royal ward; and an inquest in 1303 found that John, earl of Athol, then aged twenty-one and more, was son of Isabella, sister of Richard of Dover. *Calend. Geneal.*, ii. p. 696. I suspect from the dates, that the earl's mother was really Richard de Chilham's granddaughter. He inherited the earldom of Athol through his grandmother Ada Hastings, who descended by her mother, Fernileth, from Madach, cousin of Malcolm Canmore, who was doubly connected with English royalty through his wife Margaret, sister of Edgar Ætheling, and his daughter Edith, the queen of Henry I.

reliable English chronicler tells us, that Edward's justiciaries went through Scotland burning the Scotch, dragging them at horses' tails, and hanging them; and another, writing from the borders, records, with horror, that not only peasants were hanged, but knights and clergymen.¹ An ordinance of the English council put the whole kingdom at the mercy of foreign officials, by proscribing not only all who had taken part in Comyn's murder, but all who had borne arms against the king, or who had sheltered rebels. Those, who were merely slack in hunting down their rebellious countrymen, were to be let off with the lighter penalties of forfeiture and imprisonment; and even better terms were offered to those who, being in arms, came in of their own accord to the king's mercy, and who were to be imprisoned or ransomed at the royal pleasure. Only three prominent exceptions were made to the merciless rigour of Edward's sentences. Thomas Randolph, Bruce's nephew, was spared at the intercession of Thomas Gordon. The bishops of Glasgow and St. Andrew's, and the abbot of Scone, owed it to their high position in the Church, that they were merely imprisoned and not summarily executed, though the bishop of Glasgow was unfortunately conspicuous as having broken no fewer than six oaths of allegiance. The earl of Buchan, justly furious against the wife who had outraged conjugal honour and the obligations of the blood-feud, was urgent that she should be put to death. Edward, who was less interested in the revenge, was not yet brutalized to the point of executing a woman. With a questionable humanity, he ordered the unhappy lady to be exposed, for several days, in a large wooden cage,

¹ Hemingburgh, ii. p. 265. Chron. de Lanercost, p. 204.

fashioned like a crown, upon the ramparts of Berwick.¹ She remained for four years in rigorous imprisonment, and was then transported for three years more to gentler custody in a convent. The sisters and daughter of Robert Bruce were fortunate enough to escape insult and meagre fare, but were equally consigned to a prison or to a convent. The queen, as daughter to the earl of Ulster, and because she was believed loyal at heart, enjoyed all the honours and ease that are consistent with a light captivity. Her good fortune was the more remarkable, as it was a new incident of this lamentable war, that the wives of rebels were indiscriminately outlawed. They wandered into the woods and morasses, following their king's march as they best might, and bequeathing, or treasuring up, memories of inextinguishable hatred to their oppressor. The Scotch inroads into England had always been marked by the savage excesses which the Galwegians and Highlanders, in particular, committed. From this time ferocity became a part of patriotism, and it was a fearful consequence of Edward's cruelty, that a veteran like James

¹ Dr. Lingard denies the fact of the public exposure, on the ground, that it is not mentioned as part of the punishment in the writ mentioning how the cage is to be constructed, and because the cage was to have the convenience of a decent chamber. As, however, it is mentioned by Hemingburgh (ii. p. 247), by sir Thomas Gray (*Scalacronica*, p. 130), by Matthew of Westminster (p. 455), and in the *Chronicles of Rishanger* (p. 229), and as the fuller order for its making expressly says that the sides are to be latticed, so that all may look at her for a wonder, (*Palgrave, Documents and Records*, p.

130), it seems impossible to doubt it; and whether she was exposed in a large or a small cage does not really make much difference. But as a cage is not specified in imprisonments generally, and as a rescript of Edward II. speaks of mitigating the severity (*sevitia*) of the countess of Buchan's imprisonment (*Rotuli Scotiae*, p. 85), and alludes specially to the cage, it is evident that the punishment was considered exceptional. Mary Bruce, the sister, was at first ordered to be confined in a cage at Roxburgh; but the order was cancelled, and she was transferred, with her aunt, to sir H. Percy's custody.

Douglas, sprung from the quiet, commercial Flemings, was provoked to retaliate wholesale massacres upon the enemy. Robert Bruce, orphaned of three brothers, deprived of wife, daughter, and sisters, with no choice for himself between the scaffold and the crown, deserves at least the praise, that he was more merciful than his followers.

Edward had begun to travel northwards, before the necessity of a vigorous campaign was obviated by the success at Methuen, and he made easy progresses about the marches, or lay sick at Lanercost, distracted between the cares of ambition and thought for his soul; now occupied with securing the earl of Fife by a marriage to his grand-daughter; now writing to implore the prayers of Franciscans and Dominicans; and throughout directing the government and urging on the terrible work of retribution. But he was too ill to attend the great Parliament at Carlisle (Jan. 20, 1307), though the business laid before the three Estates was of no common interest.¹ A new papal proctor, master William Testa, was plying his unpopular trade with such energy as to rouse all classes against him. Deaneries, advowsons, and abbeys were sequestered mercilessly to the pope's nominees, the first-fruits, or first year's proceeds of a benefice were for ever annexed to the Roman treasury, and the customary and moderate composition for Peter's pence was exchanged for a new assessment of a penny on every head. It had been a custom in England to contract engagements under a penalty of money to be paid towards the next

¹ At least, the Parliament was opened by royal commissioners, and the language in the Rolls of Parliament (i. p. 189) certainly implies,

that all business was transacted through them. But Hemingburgh (ii. p. 252) speaks of a paper read out "in the hearing of the king."

passage of crusaders into the Holy Land. Bruce and Comyn had inserted a clause of this kind into their memorable covenant, and of course never intended to enforce it in Edward's law-courts. But the Apostolical proctor instituted an enquiry into all covenants of the kind throughout the kingdom, and demanded that the money should be paid over to himself in trust, even in cases where the king's courts had set aside the agreement. Even more monstrous was the claim that all bequests, where the will of the testator could not be exactly determined, should escheat to the pope. In fact, from the arrogant pretension to tax the temporalities of the clergy, of which, properly, the Church could take no cognizance, down to the ignominious sharp practice of buying an interest in bad debts and collecting them in the ecclesiastical courts, nothing was too high or too low for the pope's commissioners. The consideration of these grievances had been adjourned from the last Parliament, that the sense of the country might be taken as fully as possible. Accordingly, the inferior clergy alone mustered nearly eighty strong in the Parliament, while the bishops and abbots, without exception, either attended or sent proctors to represent them.¹ It was probably known that Edward, alike from devotion and policy, was inclined to connive at the taxes raised for a crusade, and could not be trusted to act cordially with his people. But the Parliament did its best to overcome the king's apathy by addressing him in a vigorous memorial, which enumerated the

¹ Hemingburgh has transcribed a curious appeal to public opinion, in the shape of a document that suddenly fluttered down into the midst of the Parliament. It is a violent,

and not very forcible, attack on the oppressions of the Roman see; the best point, perhaps, being a comparison of Christ paying tribute, with the pope exacting it.

encroachments on royal authority, while at the same time a statute was passed, forbidding the heads of religious houses to send any taxes beyond sea, and especially forbidding alien priors, who had been grievous offenders, to impose any contributions. The statute received the king's assent, and was ordered to be published in the county courts, as well as in Wales, Chester, Ireland, and Gascony. Master William Testa was warned by the royal commissioners to desist from any encroachments on the royal prerogative, and was provided with a safe-conduct out of the kingdom, that he might report proceedings at Rome, and obtain instructions. But the priestly influences around the king were too strong for his resolution to last. As soon as the Parliament broke up, he ordered the chancellor not to seal the writs of publication, and signed a series of rescripts reserving the first-fruits of vacant priories to the pope, reserving all the rights of former nuncios to master William Testa and his colleagues, and allowing them to send remittances out of England in the shape of letters of exchange. Peter, cardinal of Sabina, who had come to Carlisle (March 19)¹ to adjust the never-ending complications with France, enjoys the credit of swaying round the sick king to an arbitrary, and substantially, a dishonest act. But its triumphs of this kind were dearly bought by Rome.

The king was dying by inches, and passion and devotion were the only strong impulses of his life to which he remained sensible. The letters entreating the prayers of the faithful continue, and he interests himself only two months before his death (May 6, 1307) to get

¹ Chron. de Lanercost, p. 206.

Robert Grosseteste canonized. The priory of Lanercost, where he is lodged, derives a fresh endowment from his gratitude. But the neighbourhood of death did not make him softer toward his enemies. Peace was within his grasp when Robert Bruce tried to negotiate with prince Edward at Glasgow, offering terms which the prince thought worthy to be considered and reported. But his father only asked angrily, who was "so bold as to begin a treaty with our traitors without our knowledge?"¹ The soldiers for the summer campaign were appointed to meet at Carlisle about the end of June. When the army assembled, the king was so ill of dysentery that only his bedroom servants were allowed to see him, and a rumour went through the camp that he was dead. Edward heard of the report, and, by a last effort of his unbroken will, commenced the march northwards without further delay. But even short stages of two miles a day were beyond his strength. On the fifth day, as he was lifted up in the bed to take food, he died in the arms of his attendants. He had seen the end coming, and had given a last command that his dead body should be carried before the host, which he had so often led to victory, until the conquest of Scotland should be achieved. But Edward's successor had no thought of exposing himself to the toil and hazard of a war which his lieutenants might carry on. He sent the dead body to Waltham under honourable escort, and it received the last honours at Westminster, where the greatest of his race rested among his fathers, and within the shadow of Eleanor's tomb.

Among those of our kings whom we really know,

¹ Scalacronica, p. 132.

there is perhaps no greater name than that of Edward the First. He wanted in some respects the imperial conceptions of his great ancestor the Conqueror, and his commissions upon crown lands and rights are as far below the searching universality of Domesday Book, as his purely legal view of property and punishment is beneath the large temper of the sovereign who enfranchised the fugitive slave, and erased the sentence of death from his penal code. But if Edward could not see into future time, he knew the wants of his own age, and laboured for them with unswerving singleness of purpose. He found England the most priest-ridden country in Europe, and he raised a barrier against Church aggrandizement and ecclesiastical jurisdiction which neither monk nor pope could overstep afterwards. The work of legislation, which had almost been suspended for two centuries, begins again with him, and has endured in great measure to the present day. But it is especially as a statesman that Edward's wisdom is remarkable. He saw that the real strength of England was within the four seas, and, in the face of tradition and punctilio, he prepared to give up the foreign provinces, while he strained every nerve to incorporate Wales and Scotland with the English monarchy. Nor was his the vulgar spirit of a conqueror. It was not Edward, but the settlers of the English pale, who refused to admit the Irish to equal rights; it was not the king's government that proved intolerable to the Welsh, but a great English noble's. Where the king failed was in an overstrained sense of his legal rights, and in want of sympathy with the imaginative part of humanity. He lost Scotland, because he would not waive his prerogative, or humour the tradition of independence in a free people. He was prepared to give largely, to

govern wisely, even to trust generously, but he could not believe that the work of union was achieved, till the writs for both countries ran in the same name. He could understand the war levied by a noble better than that headed by a simple gentleman; and that a vague love of country should weigh with any honourable man above the feudal oath, was a question not to be seriously entertained by the king, who took for his motto, "Keep thy covenant." Like most men of punctilious intellect, Edward was occasionally blunt to the higher calls of honour. More than once he set aside the constitutional obligations which had been imposed upon him by constraint; and, under shadow of papal mediation, he deserted his difficult but gallant allies the Flemings. His people groaned under his stern government while he lived, but remembered him afterwards with affection, and told in ballads how he mixed freely with yeomen.¹ The crimes that have cast a dark shadow over his reign belong, with one exception, to the last two years of his life; and those who are conscious of human weakness will be slow to pass a harsh judgment on one, whose anger was partly the taint of a diseased old age, and whose perilous greatness had placed him beyond control and above counsellors.

¹ See the ballad of John de Reeve in bishop Percy's Folio Manuscript, vol. ii. part ii.

CHAPTER XV.

THE STRUCTURE OF THE ENGLISH CONSTITUTION.

ROYAL AND POLITICAL GOVERNMENT. THE CONTINUAL COUNCIL. THE GREAT COUNCIL. FLUCTUATING CONSTITUTION OF PARLIAMENT. ROYAL INFLUENCES. THE EARLS. BARONS BY TENURE AND BARONS BY WRIT. CONTRASTS OF NOBILITY IN FRANCE AND ENGLAND. REAL POWER OF THE ENGLISH NOBLES. LIFE PEERS AND PEERS BY OFFICE. BISHOPS AND ABBOTS. POSITION OF THE CLERGY IN PARLIAMENT. THE UNTITLED GENTRY. KNIGHTS OF THE SHIRE. BOROUGH MEMBERS. CONTRASTS OF MODERN AND ANCIENT PARLIAMENT. FINANCIAL DEPENDENCE OF OUR KINGS ON PARLIAMENT. POSITION OF ROYAL MINISTERS. BALANCE OF POWER BETWEEN KING AND PEOPLE.

WHEN the English nobles and Louis of France were in controversy with Innocent III., it was alleged on their side that John had forfeited his kingdom, by becoming the pope's vassal without the consent of his baronage.¹ Nearly ninety years later, Edward I. approved, and perhaps drafted, a letter, in which the barons told Boniface VIII., that they would not allow their king, even if he wished it, to impair in any way the just rights of his crown. The constitutional doctrine implied in these statements was capable

¹ The argument was twice brought forward: (1) by Louis's proctor, "miles quidam," to Gualo; and (2) in a letter from Louis to the abbot and convent of St. Augustine's, Can-

terbury. Paris, Hist. Major, p. 281; New Rymer, vol. i. part i. p. 140. There can be little doubt that it was the English, rather than the French, view of monarchy.

of very wide application. Throughout the thirteenth century, the ideal of what Fortescue described, at a later period, as "royal and political lordship," floated before the minds of English statesmen and gentlemen. They pledged every king at his coronation to maintain the ancient rights and franchises, once granted by his ancestors, and to enforce such new laws as the commonalty should ordain.¹ A respect for old customs might, however, be consistent with an oppressive and captious executive; and the tendency of our first Norman kings to conciliate their English subjects, by avoiding new legislation, seems to have induced a certain carelessness about statutes, and a disposition to let the judges introduce necessary reforms by case-law, or decisions applying general principles to new particulars. It is one glory of Edward I., our first truly English king, that he inaugurated a larger policy, and imparted a fresh impulse, never afterwards lost, to law-giving. But, whether old laws were to be enforced, or new laws made, the right of the people to control and advise was of equally high importance. Practically, all seemed to turn on the constitution of the king's council. By this, which comprised the great state officers and judges, the kingdom was administered without any control, except when parliaments were sitting. Under Henry III., the barons tried, for a time successfully, to establish the principle of naming the king's councillors, and of making them directly responsible for the issue of all but purely formal writs. Edward I. partly recognized both principles. While he steadily refused to allow actual interference in the choice of ministers, he was

¹ "*Leges et consuetudines . . . quas vulgus elegerit.*" *Statutes of the Realm*, i. p. 168.

careful to include in his council the more reliable members of the great nobility and the prelates. While he reserved a few writs, that were not to issue without his own special orders, he gave up the rest to the discretion of the council.¹ The members of the Continual,² or Privy, Council, took an oath of loyal service to the crown, and of inviolable secrecy.³ At a later period, the primate put forward a claim which might be interpreted to imply that he was, *ex officio*, a member of their body;⁴ but under Edward I. the pretension seems never to have been raised, or not allowed. Every councillor, therefore, was a royal nominee.

The powers of the Continual Council were at once extensive and vague. They drew up the statutes which had been agreed to in parliament, and exercised a dangerous right of tampering with the phraseology. They issued interpretations to guide the judges, and, at times, summoned these, as members of their own tribunal, to answer before them. They received petitions, and issued special commissions to hear cases and give judgment. They exercised the judicial functions which are now transferred to the common-law side of the Court of

¹ Palgrave's Authority of Council, pp. 17, 18.

² Proceedings of the Privy Council, vol. i., preface by sir H. Nicolas, pp. iii. iv.

³ Riley's Pleadings, p. 317.

⁴ This is the opinion of sir H. Nicolas. The immediate object of the primate's protest (1386) was, however, to object to the imposition of an oath of secrecy; and though there is a cloud of technical phraseology, which may be interpreted to cover the assertion that all primates

were *ex officio* members of council, it seems to me to be rather an instance of legal verbiage, intended to guard against any possible limitation of privileges. The important words are, "reserving to myself and my successors, the archbishops of Canterbury, who shall be for the time in parliaments and royal councils whatsoever, as well general as special, . . . the right of being present freely, as is premised, without the taking of any oath," &c. Rot. Parl., iii. p. 223.

Chancery; taking cognizance of those cases where the plea was laid against the crown or its ministers. They compelled offenders against the royal authority to appear and answer in person; thus superseding the common-law courts in a point of vital importance to the subjects' liberty. They recommended the crown to issue charters, by which local dues were imposed. They sanctioned the premature levying of taxes, and exercised an uncertain influence on the expenditure. They advised with the king on the conduct of foreign negotiations and war. During the reign of Edward I. they were sheltered, to a certain extent, by the sovereign's character; and, though unpopular, were never in actual danger. But, in later reigns, the power they exercised, and the salaries they received, could not always reconcile them to the risks of a prison or a scaffold, if the parliament should make them responsible for bad government; and happy were those who could retire in time, and obtain a quittance from the Estates.¹

Besides the Continual Council, there was a Great Council, which was yet not Parliament. This comprised all members of the former, all prelates and great lords, all judges, and such persons as might be supposed well fitted to advise on the wants of the moment. It is doubtful how far this body could legislate,² and it is certain it

¹ For a general view of the powers of the Continual Council, I must refer to sir F. Palgrave's treatise on its original authority; to the Proceedings and Ordinances of the Privy Council, edited by sir H. Nicolas; and to Hallam's Middle Ages.

² Possible instances of legislation by a Great Council are, the Statute

called "*de Bigamia*," in 1276; the Mortmain Act, in 1279; and the Statute de Finibus Levatis, in 1299. In the first case, however, the main provisions of the statute seem to have been agreed to in the preceding parliament. The Mortmain Act is stated in its preamble to be only the carrying out of an existing law,

could not tax. It was convoked, in cases of emergency, to strengthen the hands of authority, and give expression to the popular feeling of the day. But it was also a judicial tribunal of the highest dignity and prerogative. It was by an assembly of this kind, that the question of the Scotch succession was determined, and the letter of the barons to Boniface signed. In the second case, it seems to have followed an ordinary parliament of the Estates, the knights and burgesses going back when their work was done.

The word "parliament" is so vaguely used in our early records, that it is often doubtful what the character of the meeting actually was. It might, apparently, be an informal conference of the king and his Continual Council with the spiritual and temporal lords, who attended court at the three great yearly festivals. It might be a meeting of the Great Council. It might be composed of the two estates of magnates and commonalty, without any formal representatives of the first estate, as the bishops and abbots sate in virtue of their baronies. At the parliament of Salisbury (Feb. 24, 1297), when the clergy were in covert rebellion, even the bishops and abbots were not summoned. Unless we find that laws were enacted, and taxes not only recommended, but actually levied, we cannot always define the character of the meeting; and out of something like sixty assemblies in the thirty-five years of Edward I.'s reign, not thirty can be identified as parliaments proper. In many other respects there was a certain looseness of practice in early times. Once (Jan. 20, 1283), the nobles being with the king in Wales, the clergy and commons of all

though in reality it no doubt effected a great change; and the Statute de Finibus might be considered, with

some plausibility, as only a code of regulations for the royal courts.

England, except perhaps the counties palatine of Durham and Chester,¹ were assembled in two distinct conferences; the counties north of Trent meeting at York, and those south at Northampton. It is fortunate for England that this expedient of provincial estates never recommended itself to the absolutist policy of our sovereigns.² At the parliament of Winchester (Sept. 8, 1265), the wives or widows of the earls, barons, and knights, who had been killed or taken prisoners in the king's service, were summoned to attend, no doubt that their claims for compensation might be examined. In the reign of Edward III., peeresses were twice summoned to parliament, with instructions, on one occasion, to send proxies.³ But, above all, the crown exercised a wide discretion in issuing writs of summons. It summoned forty-three earls and barons to the parliament of St. Edmundsbury in 1296, and a hundred and eighteen to the parliament of Lincoln in 1301.⁴ It raised the number of cities and boroughs that returned representatives, from twenty-one in 1283, to ninety-four in

¹ Dr. Lingard says, that "the clergy and commons of the bishopric of Durham met in that city, probably in virtue of some privilege belonging to it as a county palatine." *History of England*, iii. p. 246. I cannot absolutely disprove this statement, but I can find no authority for it. It is true, Durham and Cheshire are not among the counties to which writs were addressed; just as, a little later, they are not on the list of counties for which collectors of the 30th are appointed. (*Parliamentary Writs*, i. pp. 10-14); but the reason in each case is, I believe, that the issuing writs of summons, and the appointment of collectors, rested with the earl palatine. Thus, in 1356, writs

were addressed, not to the sheriffs of Lancaster, but to Henry, duke of Lancaster. On the other hand, Antony Bek, archdeacon of Durham, was one of the royal commissioners for the conference at York, and it seems unlikely that he would be separated from his bishop and clergy.

² There is, however, another instance, in 1360, when knights and burgesses were summoned to attend in five different places—Westminster, Worcester, Taunton, Lincoln, and Leicester.

³ In 1361 and 1362. *Parry's Parliaments*, p. 127.

⁴ *Parliamentary Writs*, i. p. 48; *Report on the Dignity of a Peer*, Appendix i. pp. 125-127.

1295. With so vast a power of packing the representative assembly, and no restrictions but the want of money, or the dread of popular opinion, the crown might well regard its parliaments without any excessive jealousy. But it had another and grosser method of influencing votes. Knights of shire and burgesses were allowed their expenses in parliament, by an arbitrary table of fees; and the crown took upon itself to diminish or withhold the payments made, according to its own estimate of the members' respectability and good behaviour.

Assuming a full parliament to have been summoned, with numerous representatives of the three estates of clergy, lords, and commons, it was still far from certain that the elements of a strong opposition would be found in it. Taking the case of our greatest nobles, the earls, we find that they only numbered twenty altogether in John's reign; and that, under Edward, if we exclude Irish and Scotch titles, there were only thirteen at most,¹ who dwindled down to eleven. This, in itself, might not detract from their power, as it assuredly did not impair their position. But, of the twenty earls who ought to have headed the baronage against John, two, de Thouars of Richmond, and de Montfort of Leicester, were French. The earl of Huntingdon was Scotch, and the earl of Ulster Irish; while the earl of Pembroke was chiefly connected by his interests with Ireland and Wales. The earls of Salisbury and Surrey were royal bastards. The earls of Hertford and Arun-

¹ Twelve earls, with English or Welsh titles, were summoned to do military service against Wales in 1277, the earl of Arundel being omitted, apparently by confusion,

with the earl of Lancaster, whose name is repeated twice. Report on the Dignity of a Peer, Appendix i. p. 37. The earldoms of Norfolk and Cornwall became extinct during the reign.

del were connected by marriage with the royal family. Three other earls were creations of the reigning king;¹ and, of the remaining eight, only three represented the first companions of the Conqueror and the independent English nobility. It was the natural policy of our kings to be chary in the distribution of the highest honours; and, under Edward I., the time might almost be calculated when the crown should have absorbed the whole nobility. The earls of Cornwall, Lancaster, Pembroke, and Richmond, were the king's near relatives. The earl of Gloucester and the second earl of Hereford were his sons-in-law. The earls of Lincoln, Norfolk, and Hereford had agreed to a fresh settlement of their earldoms, by which these were to revert to the crown in the event of male issue failing in the direct line. Omitting those whose titles were derived from Ireland or Scotland, the earls of Arundel, Oxford, Surrey, and Warwick were the only great lords, not immediately connected with royalty,² who transmitted their titles, without decrement, to their posterity. Of these, the earl of Surrey is the only one who was, for a short time, in opposition. He was humbled at the time, and employed freely in the king's service afterwards. The earls of Arundel and Warwick were new men, who had acquired their earldoms by descent through the female line.

There were, of course, important families who were only second to earls in position and influence. Under John, several of these appear in history. Robert Fitz-Walter, captain of the barons' army; William de Braose,

¹ De Quincy of Winchester; De Mandeville of Gloucester; and Fitz-Piers of Essex.

² The earl of Surrey was, of course, the king's relative, as he descended,

by the father's side, from a natural son of Geoffrey of Anjou; and, by the mother's, from the Conqueror. But the connection was too distant to influence politics.

and his allies, the De Lacies, who acted like independent princes, in Wales and Ireland; Fulk Fitz-Warine, who defied the king for years, as an outlaw, and at last concluded peace with him; Eustace de Vesci, who married a Scotch princess; and the thirteen other barons, whom the pope mentioned by name in his brief of excommunication, are all instances of a real and powerful nobility. It was the policy of a constitutional king to retain these men in his service as governors of castles or judges; and if John and Henry III. could have bated a little of their exorbitant claims, and consented to be served by honourable men, instead of by supple foreigners, and mere dependants, it would have gone hard with English liberty. Edward I. was more prudent in his selections, and names like Gifford, Gurdun, De Vesci, Segrave, and Clifford, show that estated men, when they were capable, were freely preferred. His policy of employing natives was even carried out, to his ultimate loss, in Scotland. Accordingly, only one baron, John de Ferrars, of a disgraced earl's family, took part so actively against the king in 1297 as to deserve pardon by name. But there is reason to believe that the baronage was impaired in influence, if not in numbers, since the reign of John. Against more than two hundred, whom we can identify as barons in that period, we find only a hundred and nine summoned to the king's greatest parliament, at Lincoln; and, allowing for some omissions of men absent on service, or exempted specially, the numbers would seem rather to have fallen off, than to have increased, though the population and wealth of the country were advancing. One reason for this change may be surmised with tolerable certainty. Anciently, a barony had been the possession of a baron, and every man owning a compact estate, of a certain value, was baron by

tenure, unless specially disqualified, and entitled to special summons. But, as division of land among daughters, or among all heirs male, was at least not unusual in England, even during the reign of Henry III.,¹ the old baronies had been gradually split up, till, in one recorded instance in the thirteenth century, a relief was paid for the three-hundredth fraction of a barony.² In this case, the right to a parliamentary summons was in abeyance among the different sharers of the barony. Moreover, as attendance at court and a higher scale of amercements were inconvenient privileges, it was constantly made an object to get rid of them. There are several memorials on record, in which the petitioner asserts, that he is not a baron, and does not hold by barony, or even by part of a barony, and, therefore, prays to be excused attendance at the king's council, or a fine levied on the scale of the obnoxious dignity.³ Accordingly, the parliamentary baron of Edward I.'s time was constituted by writ of summons,⁴ though, no

¹ Thus, the possessions of Hugh de Albini, earl of Arundel, who died in 1243, were divided among his four sisters (*Dugdale's Baronage*, i. p. 121); and the lands of Petronilla de la Wodehouse, in Derbyshire, seem to have been divided between two brothers in the fifty-third of Henry III.; while the inquest records that they had, on a previous occasion, been divided between four. *Calend. Geneal.*, i. p. 136. The statements of lawyers concerning the introduction of primogeniture must therefore be regarded, as indicating the tendency of the law-courts, rather than actual facts.

² *Madox, Baronia Anglica*, p. 56.

³ Some rather famous cases are those of the abbot of Croyland in the eighth of Edward II., and Tho-

mas de Furnivall in the seventeenth. Thomas de Furnivall is believed to have made out his case unfairly. *Madox, Hist. of the Exchequer*, c. xiv. s. i. pp. 368-374. The abbot of Beaulieu obtained a writ of exemption, on the same grounds, in the fifteenth of Edward III. *Prynne's Records*, iv. p. 335. For several other instances, see *Hallam's Middle Ages*, iii. p. 122.

⁴ There is one instance, in the eighteenth of Edward III., when the Seigneur de Wake attended, though no writ of summons to him is extant. *First Report on the Dignity of a Peer*, p. 318. There are probably several explanations for this; but, were there none, a single fact could not outweigh a general use.

doubt, in the greater number of cases, the writ was issued of necessity, and not of grace. The writ did not ennoble the blood, or even ennoble for life the man who received it. He might only be summoned once or twice, or, even if he were summoned during his whole lifetime, his children were not necessarily entitled to the same privilege.¹ So far as the crown was guided by any rules other than its own convenience, it seems to have held, that a baron should possess two-thirds of an earl's estimated income, or to the value of thirteen knights' fees and a third.² The knight's fee was finally computed at a rental of £20. No doubt, it was also necessary that a portion of this estate should be held by baronial tenure. These conditions would be easily satisfied; and the crown might thus, at any moment swamp the remaining representatives of entire baronies, or baronies by tenure, with the representatives created by writ of summons.

Perhaps, the true position of the English nobility, and how completely it differed from the French, will be best understood by a comparison of their privileges, and by considering what constituted the order in either country. In France, nobility from an early period was a fact of race, connected with the descent of certain privileged families, and inseparable, except in cases of attain, from every male descendant of the first male ancestor. Accordingly, the intermarriages of nobles and bourgeoisie in France have always been *mésalliances*. In England, nobility has always been connected, either with the possession of land, or with the right to a writ of summons to parlia-

¹ Third Report on the Dignity of a Peer, p. 101.

² *Modus Tenendi Parliamentum*, p. 6.

ment; and as the tendency of our early laws was to limit the possession of the chief fee, from which nobility was derived, to the eldest son, so also the hereditary writ of summons has never been issued to any but the head of the family. Even when baronies by tenure fell into disuse, so strong were the associations that connected nobility with landed property, that a duke and a viscount have, on two separate occasions, been excluded from the peerage from poverty.¹ Accordingly, no *més-alliance* has ever been recognized by English custom, except the marriage of free and slave, in which case one of the parties might be bound by the conditions of an inferior tenure. Similarly, while in France only the gentleman could hold a fief or bear arms, these in England have been the privileges of all freemen; and, in one remarkable case, when a mere citizen became possessed of an estate involving the discharge of high official duties at a coronation, his right of purchase, or property, was never contested, though he was forced to perform the duties of his tenure through a deputy more dignified than himself.² Again, the French noble had many rights resembling those of sovereignty, and inconsistent with the exercise of the central power. He was exempt from all taxation, except the feudal aids.

¹ George Nevill, duke of Bedford, was degraded, in 1477, "for so much as it is openly known that the same George hath not, nor by inheritance may have, any livelihood to support the said name, estate, and dignity, or any name of estate," &c. Rot. Parl., vi. p. 173. Roger Stafford, in 1637, being grandson of the last baron, "was unjustly denied the dignity, on account of his poverty." Apparently, however, the refusal was felt to be irregular, as "he after-

wards formally surrendered the barony into the king's hands." Nicholas's Synopsis of the Peerage, ii. p. 600.

² At the coronation of Richard II., John Wilshire, citizen, holding lands in Haydon, in Essex, by grand serjeanty, petitioned to serve the king with a towel before dinner. John Wilshire, being of his quality, "could not perform his service, but did make an honourable deputy." Coke's Institutes, f. 107, b.

He could coin money, wage private war, and exercise an exclusive judicature on his estates. The English noble seems, at first, to have had the right, in March lordships at least, to exclude the tax-gatherer from his estates; but this may only have rested on his right to assess the tax by his own officers.¹ He undoubtedly could not be taxed without the consent of his order; but, in this respect, he was no better off than the boroughs and country gentry: while he ultimately was subjected to the most degrading of all public burdens—the poll-tax. He had no special privilege of coining; and, if he waged private war, he did it at his own personal risk, and was certain to be fined, and liable to be hanged. His rights of judicature, unless he were an earl palatine, were restricted to determining civil suits among his tenants, or trying them for offences against himself; and were further balanced by their practically unbounded liberty of appeal to the king's courts. If, by special charter, he might try thieves, whether tenants or strangers, his jurisdiction was still limited to petty larcenies, with which the higher courts did not much care to be troubled; and, in general, he might arrest but not judge. In particular, he was forbidden to imprison poachers.² The chief influence of our nobility in

¹ Thus, Edward I. issued letters patent, in 1292, testifying that Humphrey de Bohun, having graciously granted a fifteenth of the moveable goods of his men and tenants, within his lordship of Brecknock, in Wales, such grant on the entry of the king's collector into the said lordship was not to prejudice him or them in future. Similar letters are extant from other great lords; but as they all seem to refer to the case of March lordships, it

may be doubtful if the privilege could be claimed in other cases. *Parl. Writs*, i. pp. 390, 391.

² See p. 177. Compare the statute 13 Richard II. c. 13. "Forasmuch as divers artificers, labourers, and servants and grooms keep greyhounds and other dogs, and on the holydays when good Christian people be at church, hearing divine service, they go hunting in parks," &c., it is enacted that only persons of some substance may keep dogs or ferrets, and

the law-courts was therefore derived, not so much from their own power of deciding cases, as from their influence over the judges, who were often country gentlemen. Under Richard II., it was found necessary to enact, by statute, that no steward of any lord should be put in the commission of the peace, and that no lord should sit on the bench with the judges of assize.¹ Where the privileges of our nobility appear to be most exceptional, they were yet based on analogies that imply merely a graduated rank above their fellow-subjects. They owed the privilege of *partial* freedom from arrest to their position as royal councillors, and the right to be tried by *their* own order was conformable to all practice, when the knight, the burgess, and the clergyman, had the same privilege, and, more or less, *special* tribunals.² Accordingly, the English nobles, at their best, were never able to make head against a capable king, even though he were embarrassed by foreign wars, like Edward I., or weakened by a doubtful title, like Henry IV. The opposition of Bigod and Bohun was regarded by their contemporaries as a failure, though it actually extorted concessions which were never forgotten, and are now part of the constitution. But where the ruler was nerveless or vicious, the English nobles readily assumed the leadership of the country. Precisely because they were part of the people, as English in feeling, and not

that justices of the peace may enquire after and punish offenders.

¹ 12 Ric. II. c. 10. 20 Ric. II. c. 3.

² Thus, in a case mentioned in the Year Book of Edward I. (ed. Horwood, p. 531), the accused challenged the jury, on the ground that they were not his peers, he being a knight,

and knights were accordingly called in and sworn. Among the earliest privileges of the citizens of London, was the appointment of a justiciary from their own body, "and that no one else shall be justiciary over the men of London." Liber Albus, i. p. 128.

unfrequently in race, as the yeoman or the citizen, were the nobles, under the later Plantagenets, fitted to serve the crown gloriously against the common enemies of the realm, or, in the last necessity, to head the nation against the crown. The true "Golden Book" of our peerage ought to begin with the roll of names by which *Magna Charta* was guaranteed.

Besides earls, barons, and the prelates and abbots who held by barony, two classes, of what we may call the official nobility, sate more or less regularly in parliament, by the king's writ addressed to them. These were the great civil servants of the crown, its untitled councillors and judges, and the bannerets with whom, now and then, the constable of an important castle was joined, apparently out of regard to his rank in the royal service. The position of the judges, councillors, and governors of castles is tolerably easy to understand. They sate, as ministers, to explain and defend the measures which the government had adopted, or the policy which it wished the country to carry out. In the parliament of Acton Burnel, or Shrewsbury, there were nineteen of this class to a hundred and nine earls and barons, so that the official element was not formidable in this way from its numbers. But it is not easy to ascertain with precision who the bannerets were. In the time of Edward III., it was decided that they were so far commoners that their presence on a jury could not be challenged.¹ On the other hand, in the reign of Richard II., they were classed with barons for the purposes of the poll-tax.² At the parliament of Lincoln, in the reign of Edward I., several of them appear in the list of barons who subscribe the letter to the pope, and

¹ Hallam's *Middle Ages*, iii. p. 126.

² *Rot. Parl.*, iii. p. 57.

one of them, John of St. John, is high up in the list, and was undoubtedly a man of great dignity.¹ They received pensions from the crown to the yearly amount of ten or twenty marks a-piece, besides wages, when they served, for themselves and their followers; and these and other incidental advantages must have predisposed them to side steadily with the crown. If, therefore, we make allowance for royal kinsmen, nominees, and pensioners, it will be evident, that the great council of the baronage must often have been sorely embarrassed in discharging what Bracton describes as its peculiar duty of bridling the king, when he was without a bridle from the law.²

Strictly speaking, the bishops and abbots were summoned and sate in respect of their baronies, and thus represented the peerage rather than the spiritual estate.³ In fact, however, they had a double existence, and were at once the heads of the clergy and the equals and assessors of the lords temporal. An archbishop, eighteen bishops, and forty-eight abbots attended the parliament of Carlisle (1307), or sent proxies, so that, if only numbers be regarded, the ecclesiastical element was of great importance in parliament. The parliaments of Shrewsbury (1283) and Salisbury (1297), are the only recorded cases when no spiritual peers were summoned; and their attendance was so rigidly enforced, and was so

¹ John of St. John had been governor of Gascony, and signs fifth in the list of barons, or sixth, if we include Aymer de Valence, (whose investiture as earl is of doubtful date), among the barons. Other names are those of Robert Clifford, Simon Montacute, John Botetourt, and John L'Estrange. Appendix i. to Report on the Dignity of a Peer,

pp. 125, 126; *Liber Contrarot. Garderobæ*, pp. 199-202.

² Bracton, f. 34.

³ A bishop's "right to a seat in parliament is a franchise annexed to the temporalities of his see, and not inherent in his spiritual dignity of bishop." First Report on the Dignity of a Peer, p. 393.

much matter of course, that the doubt expressed in Richard II.'s reign, whether any laws were valid to which the clergy had not assented, probably refers only to the frequent absences of the proctors of the inferior clergy.¹ Nevertheless, under Edward I., the spiritual peers do not seem to have possessed great independence or political influence. Several of them undoubtedly disliked the statutes by which Edward curbed their exorbitant power; they were headed by primates, of whom two represented the worst traditions of the mendicant orders,² while the third was thoroughly unscrupulous; they were backed by the whole body of the clergy; and yet they were never able to hold their ground against the king. The reason of this cannot be sought exclusively in the fact that ten bishops, during the reign, had been royal officials, for the proportion exhibits a marked decrease since the time of John, when, in a reign only half as long as Edward's, as many royal *employés* had been rewarded with the mitre.³ Especially ought the abbots, who commonly owed little to the

¹ It was then represented that "sundry judgments and ordinances made in parliament," in former reigns, had been "repealed and annulled," because the estate of the clergy was not present in parliament at the making of the said judgments or ordinances. Rot. Parl., iii. p. 348. The statute of Acton Burnel cannot be intended, as it was re-enacted in 1285, in full parliament; and I know of no other parliament, at which there was any legislation, to which bishops and abbots were not summoned. Moreover, the clergy of the two provinces concurred with the prelates in nominating a proctor to represent them. As the bishops certainly could not bind the clergy

in matters of taxation (see p. 303) by any consent given in parliament, it was probably held, that they could not bind them in legislation.

² I have already (p. 294) noticed the disgraceful speech of the Dominican, Robert de Kilwardby, at the Council of Lyons. His successor, John Peckham, also a Dominican, was reprimanded in council, in 1279, for threatening to excommunicate those who should withdraw ecclesiastical causes into the king's courts, &c. He had also ordered Magna Charta to be taken down from the church doors. Riley's Pleadings, p. 442.

³ Though the abuse was abated, it was no doubt a scandal that was

crown except a purchased confirmation of their election, and who could hope nothing from its favour except a casual grant or an exemption from the Statute of Mortmain, to have formed an independent element in the parliaments. But the habits of the cloister were too strong for them. Promotion, support, immunity from the national taxes, were benefits for which they must look to Rome, and in Rome their interests centred. Even for an English bishop there was a fascination in the cardinal's hat that few had power to resist. Accordingly, in proportion as the popes falling under French influence became less European, and the people of England working out the French element became more national, did the spiritual peers cease to exercise any wider authority than great wealth, high birth, and, occasionally, high talent might give them. Latterly, they always looked to the crown for support against the reformatations threatened by the Commons. But, even under Edward I., they were so separated from the common cause, by the monstrous character of the immunities they pleaded, that they were beaten on the question of taxes, in the very year when two high-spirited nobles extorted the famous charter against illegal tallages.

If the power of the great spiritual lords was uncertain and generally small, much less was the right of the clergy proper to send representatives to parliament of any high value. As a separate estate, having a highly organized convocation, in times when a parliament of the realm was as yet unknown, the only right which they really cared to contest, in general, was that of granting, withholding, and assessing their quota of tax-

never quite put down. Piers Ploughman says, (p. 5, ed. Skeat), "I saw there bishops bold and bachelors of

divyn Become clerks of account, the king for to serve."

ation. This they could do most conveniently in convocation, and accordingly, throughout the contest of 1297, they acted without concert with the lords temporal and the commons. Nevertheless, they were summoned to several parliaments during Edward the First's reign,¹ on the principle, which a royal writ expresses, that "whatever concerns all ought to be approved of by all." Deans, archdeacons, and priors of cathedral churches were summoned to attend in person, but with a large practical liberty of sending proxies;² and the chapters, deaneries, and archdeaconries, elected representatives. In parliament, they seem to have sate by themselves, and to have claimed an undefined power of sending up petitions or bills to the Lords, which might pass into ordinances and laws, without discussion in the Commons.³ This might have had very mischievous results. Once (1389) an attempt was made to exempt the large property of the Oxford colleges from the national taxation; and the Commons petitioned in alarm, that the bill might not be passed without their consent.⁴ On another occasion (May, 1382), an ordinance was made, without the privity of the Commons, for the repression of heresy; but the Commons procured its repeal in the next parliament (Oct. 1382).⁵ During

¹ In 1294, 1295, 1296, 1306, and 1307, the interval of ten years being no doubt due to their quarrel with the crown about taxation. It is possible they also sate in several earlier parliaments, such as that of Westminster, in 1285, when an entry on the Close Roll states that the king was petitioned to confirm the charters by "prelates, men of religion, and other ecclesiastical persons." But the first year when they can be proved to have received writs of summons

was 1279. Hardy's Preface to *Modus Tenendi Parliamentum*, p. xv.

² At the parliament of Carlisle, fifteen archdeacons sent proxies. Rot. Parl., i. p. 190.

³ Thus, in 1377, the Commons petition the king, "that no statute or ordinance be made or granted at the petition of the clergy, except by assent of your Commons." An evasive reply was returned. Rot. Parl., ii. p. 368.

⁴ Rot. Parl., iii. pp. 275, 276.

⁵ Rot. Parl., iii. pp. 124, 141. The

the same mischievous reign (1389), the clergy once joined the bishops in enrolling a protest against any laws that should be passed in derogation of Church franchises;¹ and once (1397) procured a parliamentary recognition of the invalidity of any laws that were passed without their consent.² Fortunately their influence suffered from their refusal to vote taxes anywhere except in convocation itself.³ Their object in this, probably, was to secure the presence and support of the bishops; but as the business of their representatives in parliament was thus limited to expressions of opinion, and refusing or giving assent to laws, they ceased to be considered of importance; their functions might be discharged by a single proctor;⁴ and the right of the order to elect fell so completely into disuse during the fifteenth century,⁵ that its ancient existence has almost passed into oblivion. Yet, in times when the clergy owned at least a third of the national wealth, were the special representatives of learning, and were recruited from

expression in the preamble of the illegal ordinance, that the growth of heresy is "sufficiently proved" before the bishops, doctors of civil law, and "a great part of the clergy of the realm, especially for that cause assembled," probably refers only to proceedings in convocation; but as convocation had met just before to provide a subsidy, I think it may fairly be presumed, that they coupled their grant of money with a request for a law against heresy.

¹ Rot. Parl., iii. p. 264.

² Rot. Parl., iii. p. 348. See note 3, p. 468.

³ In 1380, the clergy, being asked to contribute a third of a capitation tax, reply, "that their grant was never made in parliament, nor ought to be." Rot. Parl., iii. p. 90.

⁴ In the parliament of 1397, desiring to separate while the other estates were sitting, they appointed sir Thomas Percy their procurator, with full power to consent to all laws and ordinances in their behalf.

⁵ In 1547, the clergy of the province of Canterbury petitioned, that "they might have their room and place, and be associated with the Commons in the nether house of this present parliament," "according to the tenour of the king's writ and the ancient laws and customs of this noble realm;" and if not, that laws concerning the Christian religion, or their persons and property, might not be enacted without their being made privy and heard in answer. Wilkins, *Concilia*, iv. p. 16.

every class, common fairness and policy alike demanded that they should have a voice in the national councils. They forfeited the privilege by the unwise persistency with which they clung to their existence as a separate order, and forgot that they were citizens as well as priests. In the interest of the great changes that were found necessary in a later century, it can hardly be regretted that they had no voice in the parliaments of the sixteenth century.

While the tendency in the baronage had been to a diminution of the highest titles, and a decrease of numbers generally, two very different causes had contributed to swell the numbers of the country gentry, and of the freeholders or substantial yeomanry. A period of peace or commercial prosperity is naturally attended with a certain increase of population; and the regulations for withdrawing land from commonage, and the higher numbers that our chroniclers mention as serving in mediæval armies are fair evidence that England contained more men, and a larger proportion of rich men, in the thirteenth century than in the twelfth. The ambition of all in easy circumstances would naturally be to become proprietors of land. At first, the existing tenants of fiefs, regarding themselves as virtual proprietors, so long as their obligations to their lords were discharged, were accustomed to subinfeoff purchasers with more or less of their land, receiving from the new tenants the same services which they themselves rendered to their lords. But the lords looked with jealousy upon a practice, which excluded themselves from a share in a very profitable class of transactions; while in cases where the family of their own vassal died out they lost the profits of the alienated fee altogether. Accordingly, by the statute known as "*Quia Emptores*,"

it was enacted (July, 1290) that, in all such cases of alienation, the new purchaser or feoffee should hold the land of the chief lord by the same services and customary dues by which the seller or feoffee before held it. This act was a compromise between the rival interests of lord and tenant, as the latter, who had before been restricted to selling only so much land as would not interfere with his ability to discharge his services to his lord,¹ might now dispose of the whole of his fee, while his lord acquired the rights of suzerain over the new vassals. It cannot be doubted that sales were multiplied accordingly, or that new families were added to the roll of proprietors. This class had obtained earlier recognition than the towns, and had sided with the crown in the barons' war. After De Montfort's parliament of London, it was regularly summoned to elect representatives in the county court, and from the fact that, when the franchise was at last limited, it still included all possessors of a forty-shillings freehold, we may probably infer that freeholders possessed the right to vote in the first elections.² In fact, as the privileged

¹ "Let no man in future give or sell any more of his land to any one, but so that of the residue of his land the service due to the lord of the fee may be performed to him, &c." Third Charter of Henry III., Statutes of the Realm, i. p. 24.

² There is a more restricted theory of the old county franchise, which supposes that knights of the shire represented only the crown tenants. For an excellent examination of this, I must refer the reader to Hallam's *Middle Ages* (iii. pp. 15-19 and 215-219). The great reason for the narrow view is the analogy from the bishops and baronage holding imme-

diately of the crown, and from the presumption entertained by some, that only royal boroughs returned members. On this latter point the lords' committee was unable to arrive at any definite conclusion. (*First Report on the Dignity of a Peer*, pp. 377, 378). On the other hand it may be observed, that the bishops attended the Great Council before the question of investitures was decided; that the clergy, who certainly had the technical right to elect representatives, did not hold immediately of the crown; that the number of boroughs which received writs at one time or another is so large, as to

class was comparatively small under Edward I., to what it became in the fifteenth century when villenage was dying out, the electors in any single county would not be so numerous in the thirteenth century as to excite jealousy or create disorder. At first, the class so far bordered upon the baronage that its members sate and perhaps voted along with them. As the great nobles became fewer, richer and more exclusive, while the knights of the shire were returned by larger and more various constituencies, a sharper line of demarcation between the orders was drawn, and the county members assumed their present place as members of the Lower House. The change took place during the reign of Edward II. In the reign of Henry VI. it was found necessary to enact that men below the position of yeomen should not be returned as county members.¹ There are also signs of development in the theory of their parliamentary powers between the thirteenth and the fifteenth centuries. At first the writs stated, that two discreet knights are to be sent to parliament, with power to advise on, and consent to, whatever the earls, barons, and other magnates have unanimously ordained.² Afterwards their functions are said to be, to make and consent to such things as shall be agreed on by the

make it highly improbable that they all held immediately of the king, or were in the king's hand; and, that similarly it is difficult to believe, in times when the crown lands were neither very extensive nor very valuable, that the crown tenants would be of sufficient importance to demand representatives, or perhaps even, that crown tenants could be found in every county. In 1413 the commons, wishing to restrict the franchise to residents, petitioned that

knights of shire might be elected by knights, squires, and commons of the respective counties. Now a squire might have the qualification of a knight, or less, or none at all, in land. Rot. Parl., iv. p. 8; iii. p. 58.

¹ Rot. Parl., v. p. 116. "An election was set aside (39 Hen. VI.) because the person returned was not of gentle birth." Hallam's Middle Ages, iii. p. 119.

² Parliamentary Writs, i. p. 26.

common council of the realm.¹ The author of a political treatise, written probably under Edward III., on "the method of holding a parliament," observes that the two knights of a shire had a greater voice in parliament than an earl, and that the proctors of a diocese could outvote their bishop. This seems to imply, that at that time peers and commoners were intermingled in voting, and, though this practice did not last long, it must for the time have added largely to the importance of all members of the Commons.

The cities and towns of England were rapidly rising in wealth and influence. First, London and the Cinque Ports, then a number of boroughs, more or less important, were gradually invested with the right to send representatives of their interests to parliament. Of a hundred and sixty-five that received the privilege under Edward I., many must have been small places, with only a few hundred inhabitants, and more than a third either disregarded the writs, in spite of the pledges taken for the attendance of members,² or only made one election in compliance with them. The numerous writs issued are therefore chiefly valuable, as proving that our first thoroughly constitutional king, finding the representatives of towns tractable, adopted a practice which really implied, that all above the condition of serfs were entitled to a voice in the national councils. Except on the one occasion, when the landed proprietors and trading classes were alike threatened with ruin by the illegal

¹ Report on the Dignity of a Peer. Appendix i. p. 934.

² "Walter le Rous is elected knight, . . . and is held to bail in eight oxen and four cart-horses, to come before you on the day specified in the writ." Parliamentary Writs, i.

p. 66. This, it is true, was the case of a county representative; but the names of those who stand bail for burgesses are constantly given, though the bail required may not be specified with so much Homeric simplicity.

and monstrous tax upon wool, amounting to half, at least, of its selling value, Edward I. always seems to have carried the representatives of towns with him. In fact, the distant injury, that threatened the middle classes from the legislation of this reign, about entails, was amply compensated by the Mortmain Act, by the larger facilities for investing in real property, by the new processes for recovering debts, by the improved police and reformed judicature, and by the public policy that assisted Flanders and ruined Berwick, while it made no unnecessary sacrifices for Gascony. The primary function of the burgesses in our first parliaments was to vote money aids. It is, at least, probable, that their presence was also regarded as establishing the validity of laws passed during the session; though these would naturally be prepared in council, and only discussed by the baronage. In the second year of Edward II. we find them petitioning the king for a redress of grievances; and, as the clergy had before coupled a grant with a petition against obnoxious laws and practices, it is probable that this right is coeval with the institution of parliament. The writs for summoning the parliament of Acton Burnel seem also to imply, that the Commons were associated in the act of high justice upon David of Wales. These proceedings, however, partook altogether of an extraordinary character, and it would not be safe to infer from them, that the Commons possessed a judicial character during the reign.

Reviewing the parliaments of the thirteenth and fourteenth centuries, it is curious to notice how many features they appear to possess, that are now regarded as distinguishing marks of an advanced liberalism. An upper house, composed largely of life peers, or high officials; annual parliaments; payment of members;

a franchise, practically universal, among all freemen; yeomen and tradesmen representing counties and cities; we may even add, women summoned to the upper house; are facts that seem to show a broad basis of constitutional liberty under the later Plantagenets. With many important reservations, it is probably true, that the circumstances of these times favoured a wider growth of popular representation than had existed under the early Norman kings, or than the Tudors permitted. It is true, the life peers were all men with the same interests as the baronage; annual parliaments were unimportant, when there was so vast a power of packing them; payment of members was in the interest of the crown, as it made towns unwilling to elect, and furnished ministers with means of corruption or annoyance; the qualified voters can scarcely have numbered a fourth part of the nation; and the practice of returning small squires or yeomen seems only to have come in, when the constituencies had been swamped by wholesale enfranchisements, and was checked by royal ordinance and by an act restricting the suffrage. Still, our early parliaments do appear to have represented the wealth and intelligence of the country in no ordinary degree, comprising almost every man who was himself a power in the State, from position or character, and representing every interest of property, from the yeoman who farmed sheep to the merchant who exported wool. But the extent of their functions was undoubtedly less than it has been in later times. They meddled less with laws, because the occasions of change were fewer, the powers of the judges in making change greater; and, there was a general feeling against statutory changes, except when they were unavoidable. Their influence on foreign politics was rather indirectly

by refusing extraordinary supplies, than directly by criticising the king's measures. The one great principle which was the secret of their power afterwards, was the English doctrine that the subject's property was his own, and that no tax was just in principle unless the man who paid it consented to it. This remarkable theory is so clearly implied in all our laws, and so much at variance with Roman precedent and continental practice, that we may fairly claim it as of native growth.

Now circumstances were perpetually throwing our kings upon their people for support. There was a sort of cycle by which taxes were imposed, stereotyped, remitted by special charters till they became worthless, and finally given up. The charges, with which the Romans had burdened land for the support of bridges and walls, were so largely commuted during early Norman times, that throughout the fourteenth century numerous petitions were presented by rising towns for the right of levying them anew. Danegeld, first imposed in a great emergency, was a little later an important branch of revenue, and fell into disuse in the reign of John, or perhaps of Henry II.,¹ evidently because the exemptions, granted to the clergy and military tenants, were such as to make the tax practically unproductive. Accordingly, in the time of Edward I. the ordinary royal revenue would have been reduced to the crown lands, much diminished by his father's prodigality,² to the extraordinary aids,

¹ The last collection of Danegeld that can be traced is in the twenty-first of Henry II.; but exemptions from it are inserted in charters under John, perhaps *pro formâ*. Madox, *History of the Exchequer*, pp. 479, 719.

² Under Henry II. the crown lands

had been estimated at £8000 (see p. 208). Under Henry V., in 1421, the whole amount of casual revenue, as it was now called, from rents, escheats, wardships, and fines of justices, only amounted to £15,066 10s. 9d. *Proceedings of the Privy Council*, p. 313. There may have been great

which were now fixed at a definite amount, and to the fines, of whatever kind, for the settlement of estates, or the composition of offences, if the king had not succeeded in devising two new sources of revenue. The first of these was the export duty on wool, which seems, during this reign, to have been regarded as a permanent charge, so long as it did not exceed half a mark a sack. As the right to port dues was among the regalia, we owe it to the fortunate circumstance, that towns like London had purchased this privilege for themselves, that Edward was obliged to apply to parliament for permission to levy this tax. Next, it seems certain that a great change was made, probably under Henry III.,¹ in the theory of feudal taxation, so that whereas a knight had formerly been a man owning a knight's fee, it became obligatory on every man owning £20 worth of land to take up his knighthood, do military service, and pay feudal aids.² One result of this was, that men holding by socage tenure took a part in the county elections, and the distinction of dignified and undignified tenures began gradually to disappear. The first of

fluctuations between these periods; but Edward I. is not likely to have begun his reign with a very large rent-roll.

¹ See p. 210.

² A writ, dated May 6, 1285, begins by stating that "we and our ancestors" have been accustomed to order, that all men "having twenty pounds worth of land, or an entire knight's fee to the value of £20," should be compelled to take up their knighthood. *Parl. Writs*, i. p. 249. In a later writ of Feb. 6, 1292 (*New Rymer*, vol. i. part ii. p. 758), the qualification seems to be stated at forty librates, but this may only mean

that there was a certain laxity of practice. The first statute of Westminster had made the same aid chargeable on £20, land in socage, and on a knight's fee; this is the computation followed in the *Modus Tenendi Parliamentum* (p. 7). Probably, when it became a question of charging land with personal service, as well as with extraordinary aids, it was found necessary to make the qualification larger. Of course, the fact that certain lands were the qualification of a knight, did not make them a knight's fee, or affect the order of inheritance.

these changes in taxation had been recommended in the preceding reign, and the second had been initiated; but under Edward I. they passed into established practice. Nevertheless, the king's income in one year (1300), for which we have full accounts, did not reach £60,000 altogether; and although this was sufficient for a time of peace, it was quite inadequate for a campaign, however small. The account of outgoings for the year in question displays a deficit of nearly £6000; and the wages of soldiers and officers seem further to have been partly paid by separate accounts, or else left largely in arrear.¹ The plan of levying a scutage, or tax, on every knight's fee died out gradually, as the knight's fee ceased to be a term of any real meaning, the reasons, no doubt, being, that it was inconvenient to collect from fractions of fees, and impolitic to tax military tenants as often as the State required money, while smaller freeholders were exempted. Special taxation now took the form of a rate assessed on personalty, the citizens of towns commonly paying in larger proportion than the baronage and knights, on the ground, no doubt, that the latter were more liable to personal service, and had to pay special aids to their suzerain. The clergy were only liable for their temporalities,² unless, as was constantly the case under Henry III., the pope granted a

¹ Thus, Thomas de Camville is entered as entitled to 1s. a day for a hundred and twenty-three days, of which he receives from the Wardrobe account 4½d. a day, the rest being assigned him on the marshal's roll. *Liber Contrarot. Garderobæ*, p. 219.

² This principle was affirmed in the provision of *Magna Charta* (22), that a clerk was only to be amerced

in the proportion to his lay fee, and "not according to the quantity of his ecclesiastical benefice." In 1264 a general tenth seems to have been imposed on all ecclesiastical revenues by the king, "prelates and magnates," but it was a time of emergency; it was found difficult or impossible to collect the tax, and I know no other instance of the king in council levying it.

tax on their spiritualties. The exemption was no advantage to the order, whom the State repeatedly visited with larger assessments, while whatever escaped the crown, paid toll to Rome.

It results from all this, that, although the crown, under a wise and fairly popular sovereign, was all but irresistible, its power was not of a kind that would bear severe trial. Having lost its old proportion of the land of the country; a fixed tax, like Danegeld; the profits of the Jewry; and a tax, that could almost be levied at pleasure, like scutage; it was poorly compensated for these, by a certain increase in fines, which were the fertile source of heart-burnings, and by a moderate impost on wool, derived from a parliamentary grant. Practically, it was obliged on every great state occasion, from a war to a coronation or a marriage, to ask its people for a most obnoxious tax, involving an entry into every house and the appraisement of all personalty. The expenses of collection must always have absorbed a large portion of the revenue; and made the royal judges and the sheriff the especial objects of popular indignation, and the scape-goats of every political crisis. The royal service was eagerly coveted, as the road to honour and lands, and it drew a disproportionate amount of the intellect of the country into its ranks; but it was difficult for any man to serve the commonwealth and retain the king's favour. Under Henry III. the good and bad, men like Hubert de Burgh, or Peter des Roches, were equally unsuccessful in their careers. It is highly honourable to Edward I., that he never screened his ministers from a fair enquiry; and that one of the most fiercely attacked, Walter de Langton,¹ was also completely vin-

¹ Walter de Langton, having offended prince Edward, was three

licated in the issue. But Edward the First's ministers were not popular.

In fact, the ministers of the crown were in those days rather counsellors and assistants, men who advised in emergencies, provided means, and kept watch over rights and privileges, than the great state officers who now form a cabinet. In the case of Bigod and Bohun, who held their offices by inheritance, the interest of the landed proprietor outweighed those of the crown official for a time. But the constable and marshal were the subject of constant complaints from the Commons for their encroachments on the common-law courts; and a statute was passed, in Richard II.'s time, to restrict them to matters out of the realm, such as contracts in time of war might be; and to those cases of chivalry, like duels, and the rights to armorial bearings, with which the ordinary courts were not fitted to deal. Partly, perhaps, because their functions were in some sense international, partly because they dealt with cases which the ordinary laws of the kingdom had not contemplated, both these great officers administered justice on the principles of Roman law; and their proceedings were therefore governed by a code of more arbitrary temper than the English. The chancellor, as an ecclesiastic, had probably always been trained as a canonist; and the mixture of churchmen among the judges was doubtless unfavourable to their independence or regard for national rights. The secular spirit of the baronage and the national feeling of all orders were our true preservatives, in the thirteenth century, against the systematic growth of a modified imperialism. The crown named

times charged with the most heinous offences. He was every time triumphantly acquitted; the first time at Rome, afterwards in England. Foss's Judges, iii. pp. 114, 115.

ministers and judges, and displaced them at pleasure; garrisoned castles, packed parliaments, and summoned all contumacious subjects before the Continual Council: but it dared not, for its own sake, weaken the repugnance to papal encroachments, or alienate the large classes who paid taxes and were represented in parliament. Under a wise king, the opposite advantages of a strong executive and a sensitive public feeling were combined in a very different way from what exists in any modern state, but with singular vitality and success.¹

¹ For a fuller treatment of the subjects discussed in this chapter, I may refer the reader to Professor Hearn's "Government of England."

CHAPTER XVI.

THE ENGLISH CHURCH OF THE THIRTEENTH
CENTURY.

CLAIMS OF THE ENGLISH CHURCH. PARTIAL INDEPENDENCE OF THE STATE.
BENEFIT OF CLERGY. CHURCH JURISDICTION IN FAITH. SMALLER
ECCLESIASTICAL COURTS AND THEIR FUNCTIONS. THEIR REPUTATION
AMONG THE PEOPLE. EXTENT OF CHURCH PROPERTY. NUMBER OF
PARISHES AND MONASTERIES. GOOD AND BAD INFLUENCES OF CHURCH
ENDOWMENTS. LAWSUITS. DIVISIONS WITHIN THE CHURCH. RISE
AND GROWTH OF THE MENDICANT ORDERS. SOME RESULTS AFFECTING
KNOWLEDGE AND POPULAR THEOLOGY. BALANCE OF SPIRITUAL AND
SECULAR INFLUENCES IN ACTUAL LIFE.

THE position of the English Church between the Conquest and the Reformation was rather that of a separate state, owing allegiance and service to the English crown, but governed by its own head and officials, than such as the most powerful corporation of modern times enjoys. Its theory of existence was so distinct from those which regulated secular society and the conditions of citizenship, that only one of two issues appeared possible. One of the rival powers must absorb the other, and the Church make the State its instrument, or the State secularize the Church. In the code of privileges of the clergy, which one of the ablest English canonists compiled for one of our most saintly bishops, Grosseteste, the assumptions put forward strike at the very roots of civil society. The temporal power may not apprehend a priest unless he be caught red-

hand in a felony; and a clerk may lawfully defend himself on all other occasions against the ministers of justice. If a jury find a true bill against a priest, he must still not be dragged before the secular courts, but be handed over to his diocesan. Whoever violates his privileges is excommunicated. In civil matters, a clerk may take his cattle out of the pound without being made to answer in court for the trespass. It is sacrilege if any man distrain on the lands or personalty of a clergyman. Whatever damage is done to property owned by a clergyman is sacrilege. No new taxes or tolls may be imposed on priests, or, above all, on schoolmasters. From the churchyard to the altar all consecrated ground is sanctuary, and whoever takes a fugitive by force out of it, unless he be a burglar or highway robber, is excommunicate. Whoever works on a feast-day is excommunicated.¹ These grievances, comprehensive as they are, by no means exhaust all the charges that Grosseteste brought against the civil power. He complained, that it followed its own immemorial laws of marriage against the church canons. He complained, that bishops were forced to discharge the secular functions of their baronies, and to bring to judgment the priests whom the common law by itself found it hard to touch. Mixed up with these extravagant pretensions are some notices of real abuses. The crown was apt to plunder the temporalities of a vacant see; to demand large fines for the institution of abbots; to procure presentations for favourites, without regard to their qualifications; and, to live at free quarters in religious houses. The latter of these grievances was removed by statute in the next reign. But, if the account be-

¹ *Annales de Burton*, pp. 425-429.

tween the rival powers were balanced, it is certain that the aggressions of the Church were more numerous and more formidable than any encroachments that king or council could attempt.

It is true the State, under Edward I., never actually conceded what was asked of it. It habitually imprisoned disorderly clerks on suspicion. It forbade laymen to give evidence on oath at episcopal inquests. It forced the bishops to refrain from holding secular pleas. It compelled them to make returns of marriage after its own fashion. It asserted the right of the officers of the common law courts to distrain on the lands of ecclesiastics as freely as elsewhere. It posted up secular proclamations on the church doors. It forced the clergy to tax themselves, in at least fair proportion to their wealth and special exemptions from active service. It restricted the right of sanctuary, and disregarded it altogether in exceptional cases. It compelled refractory prelates to appear before council and be admonished for seditious practices. Nevertheless, when all this has been allowed, it was none the less a crying evil, that separate jurisdictions should exist, or that men should escape the punishment of their crimes by privilege. Any clerk, imprisoned for any crime, except high treason or bigamy,¹ might be claimed by his ordinary, and was then given up to the justice of the diocesan courts. In many cases these were favourable to the order, and an offender escaped. In a single circuit of Edward the First's reign, ten clerks, accused of different crimes, such as murder and burglary, were demanded by their bishops, declared purged, and re-

¹ Marrying a widow was bigamy. Year Books of Edward I., 30 and 31, p. 530.

stored to their lands, benefices, and society.¹ It is, of course, possible, that they were all innocent, but it is certain, that sterner justice was done in the temporal courts, and that the practice of canonical purgation, by witnesses swearing generally to good character, was eminently favourable to a caste, whose members were bound together by peculiar interests, a common dislike of the law, and a feeling that much might be strained to avoid scandals. In fact, when it became the custom, at a later time, to go formally through the trial, before an offender was suffered to plead his clergy,² the number of men, convicted before the secular judge and acquitted before the ecclesiastical, was so great, that it became necessary to limit the obnoxious privilege.³ On the other hand, as the tendency of our jurisprudence has commonly been merciful, the system was extended to include, not only the vagrant clerk, who had practically renounced orders, but the scholar, whose reading appeared to show that he was in training for the priesthood;⁴ the number of condonable offences was extended, till it included, all except treason against

¹ Prynn's History, iii. pp. 272, 273.

² This alteration was introduced in the reign of Henry VI. by sir J. Prisot, C. J., and the other judges, in order that, if the clerk were found innocent, he might escape the forfeiture of goods and chattels, with the profits of his lands, which were otherwise sequestered till he had made purgation. Coke, 2 Inst. 164. Reeves, History of English Law, iii. p. 421.

³ In such cases the temporal courts handed over the offender to the ordinary, "*absque purgatione faciendâ.*" He was then debarred from making his purgation, and remained in pri-

son for life, unless he received a special pardon from the crown. Blackstone's Commentaries, book iv. c. 28.

⁴ The *Ordinacio Cleri* (25 Edward III., c. 6) confines benefit of clergy to "all manner of clerks as well secular as religious." But under Henry VII. it was found necessary to enact, that persons not within orders should not be admitted to the benefit of clergy for more than one offence. Murderers were to be branded on the thumb with an M; other offenders with a T, that they might be recognized in case of a second offence. (4 Henry VII., c. 13).

the king;¹ and the bishop was liable to be fined, if he refused to claim an offender who prayed his clergy and read.² Generally it may be said, that the Church always retrieved under a bad king, an Edward II. or Richard II., the ground which it lost under just and competent sovereigns. Thus the worthless son of Edward I. repealed a great part of his father's salutary legislation, renounced the right of distraint upon old church lands, restrained the judges from forcing clerks who had confessed a felony to abjure the realm, and forbade them to take the confessions of clerks, who were willing to turn king's evidence and renounce their benefit of clergy.³ Our judges and barons did their best to neutralize the effects of this partial legislation. Sometimes the guilty clerk was remanded to prison, on the ground that other charges against him were in reserve, and must be enquired into before he was given up. Clerks, against whom writs were out, were often arrested in the most solemn functions of the Church. But Edward III., a dissolute man, whose schemes of foreign conquest required the support of the clergy, legislated against both these practices, without providing any remedy for the evils that had occasioned them.⁴ There is a prevalent idea, that church privileges were mostly derived from the mistaken piety of our kings. The theory is not borne out by history. The most irreligious of our sovereigns, (William Rufus, perhaps, excepted,) was John, who made himself the

¹ Thus it was extended to include the felonious burning of houses, though, on the other hand, it was restricted by the statute (25 Edward III., c. 2) that made false coining treason against the king's person. Reeves, *History of English Law*, ii.

pp. 463, 464.

² Reeves, *History of English Law*, iii. p. 420.

³ By the *Articuli Cleri*. Statutes of the Realm, i. p. 171.

⁴ 25 Edward III., c. 6. Statutes of the Realm, i. p. 326.

pope's bondsman, and the most profligate Edward II., who conceded the Articles of the Clergy. But for pure lives, and that devotion which finds expression in upright conduct as well as in prayers and almsgiving, none of our kings can bear comparison with the Conqueror, who first asserted the supremacy of the State over the Church, and with Edward I., who passed the Mortmain Act and established the independence of our temporal courts. A bishop, claiming privileges for the Church, was often a good man though a bad citizen; but the kings, who allowed the Church to encroach on the State, were, without exception, usurpers, tyrants, or profligates.

As a separate order, the clergy claimed not only to be independent of the State, but to have a jurisdiction of their own in matters of faith and morals, in questions of church dues, in testamentary matters and in contracts as having a moral side to them. The latter of these claims, which would have given them all the civil law business of the country, was too monstrous to be carried out, and they were beaten back from it. But they still retained a wide and important jurisdiction. Fortunately for England, there were few cases of heresy to test the clemency of the Church in the first three centuries after the Conquest, and two merciful rules of practice were established: first, that suspected persons were to be tried before a council, and next, that confessions were not to be obtained by torture.¹ In the case of those who abjured their heresy, imprisonment, more or less long, in a monastery seems

¹ Thus, in the case of the Templars, the archbishop enquired of a synod, summoned for the purpose, whether, if the offenders will not confess, "they

are to be subjected to the question and tortures, though this was never seen or heard in the realm of England." Hemingburgh, ii. p. 287.

to have been the regular punishment. Some Germans, convicted before a synod at Oxford of denying the Sacraments and authority of the Church, were branded, whipped, and outlawed, so that they died of cold and hunger; but their one English proselyte was allowed to recant, and taken back into the Church.¹ Fifty years later, a graver charge occupied a synod at Oxford. A deacon, fascinated by the charms of a Jewish maiden, apostatized at her bidding from the faith. He confessed and gloried in his offence, convincing his unwilling auditors by a public insult to the cross, and a formal profession that he renounced the "new law" and the "false prophet, Christ," and "despised his mother." Then the archbishop, weeping bitterly, degraded the renegade from holy orders, and cast him out of the Church. By the earlier and more credible account,² Fawkes de Breauté, whose peculiar piety combined habitual sacrilege with a horror of false doctrine, seized the wretched man as soon as he was in the streets, dragged him out of the town and cut his throat, with protestations of regret that he had not sent his mistress with him to hell. But Bracton says³ he was burned by the secular power; and the statement at least shows that an English judge regarded heresy as a crime punishable at common law. False miracles might be treated as heresy. This same council of Oxford convicted a wretch, who had copied the sacred stigmata on his person, and inflicted some punishment

¹ Newburgh, lib. ii. c. 13.

² Paris, Hist. Minor, ii. p. 254. I prefer this, on the whole, because it is given with a great deal of detail as if from an eye-witness, and because the deacon's conduct seems to prove, that he did not expect any

other punishment than degradation. Sir F. Madden refers the Historian Minor (i. p. xxxviii.) to 1250-1253. Bracton appears to have written between 1262 and 1268. Reeves, History of English Law, ii. p. 90.

³ Bracton, f. 124.

upon him, the exact nature of which is not on record.¹ Here the offence amounted to heresy, as the offender seems to have claimed a supernatural character. But smaller impostures were more summarily dealt with. Under Edward III. (1340), bishop Grandison of Exeter enquired, in the manor court at Chudleigh, into a supposed miraculous cure of blindness, and found that its object was still blind of one eye, and could see no better than formerly with the other.² Here, of course, the plea had a secular side, as the man was obtaining money under false pretences.

Below the synod, provincial or national, there were three main divisions of ecclesiastical courts. The archdeacon's, held by himself or deputy, was for cases in the archdeaconry, and an appeal lay from it to the bishop. Such an appeal would be heard in the Consistory or Diocesan Court, held by the bishop's chancellor or commissary; and beyond this again was the Court of Arches in either province, presided over by its dean. The last resource was to the pope. Whatever sins could be made matter of penance by the priest might become subject of plea in an ecclesiastical court, with the single reservation, (intended to guard the secular jurisdiction in contracts,) that the Church should only impose penance, and not money damages, in cases of broken faith. Questions of church dues, such as tithes and mortuaries, and cases of marriage and divorce, were within the recognized domain of the courts spiritual; and in times when the peasant's tenth egg and the tithe of the shepherd's wages were claimed, when the corpse-sheet escheated to the priest,³ when the hus-

¹ Paris, *Hist. Major*, p. 314.

p. 75.

² Oliver's *Monasticon Dioc. Corn.*,

³ Thus, in Henry the Eighth's reign,

band might transfer his wife for money,¹ or divorce her because she had stood with him at the font,² there can be no doubt that the courts had ample occupation. On an average, every district of forty to seventy thousand inhabitants had its smaller spiritual court, and every three such districts their court of appeal.³ If the archdeacon was strict, few indeed must have been the households where one or other member was not, at one time or another, cited before him. From incontinence to foul speech, from perjury to angry words, from the man guilty of witchcraft or sacrilege to the negligent churchwarden or niggardly payer of tithes, there was scarcely an offence or offender against the complex ecclesiastical code, that was too small, or too great, to form matter of enquiry. The summoners and other minor officials, who eked out their living by their fees,

(1515) the curate of St. Margaret's, claiming the sheet in which a dead child was laid out, the father, one Hun, a tailor, refused, and being cited into the Ecclesiastical Court, was prosecuted for heresy, and imprisoned in Lollard's Tower, where he was afterwards found dead under circumstances of great suspicion. Hall's Chronicle, p. 573. In 1380 the commons petitioned that parsons and vicars might not be allowed to take mortuaries of armour. Rot. Parl., iii. p. 82. The mortuary seems to have been modelled from the heriot, on the assumption that every man owed service to the Church.

¹ See vol. i. p. 601, note 2.

² Gir. Camb., Gemma Eccles., p. 46.

³ There were forty-eight archdeaconries in seventeen English dioceses. It is possible that in some cases the bishop did not constitute an archidiaconal court, but no district was

without a court of some kind, and an exempt abbey, like St. Alban's, might have a separate jurisdiction. Gir. Camb., Spec. Ecc., p. 96. Gesta Abb., Mon. S. Alb., p. 13, &c. Professor Rogers has expressed a strong opinion, that "whether the number of the English and Welsh people in the fourteenth century was one and a half or two or even two and a half millions, it is certain that the rate of production precludes the possibility of its being more than the highest estimate." History of Agriculture, vol. i. p. 57. On this assumption the population to a court would only average from 30,000 to 50,000. But as the population of England alone was nearly two millions under the Conqueror, and seems to have increased in the thirteenth century, if we may judge from the enclosures of commonage and the growth of towns, I have adopted a higher estimate.

were the sleuth-hounds of the court, scenting out the secret sins of the neighbourhood, and extracting private compositions from the perpetrators. Without accepting Leighton's estimate, at a time when the church power had been pruned, that these officials might be numbered by thousands,¹ it is certain they were sufficiently numerous to establish a very real surveillance of opinions and morals in England. So long as they were well administered, the general tone of public feeling was in their favour. Men generally were so habituated to minute supervision in their daily life, as tradesmen or as mechanics, and to the exaction of personal service in a dozen different ways, from the State or great landlords, that that minute interference with action, which is now regarded as the most intolerable of evils, was in harmony with the whole State economy. That a man should be kept moral by fines for loose language or a disorderly life, was in no sense more oppressive than the municipal laws, which constrained the baker to knead his bread in presence of the servants of his substantial customers, and to identify every loaf that he sold by his seal.² On the other hand, it might be a great advantage that lords and gentlemen should be restrained, by fines and penances, from attempts against the honour of humble women.³ Nor must it be for-

¹ "Some have summed them up to the number of 22,000 or thereabout." Syon's Plea against the Prelacy, p. 121. But this calculation includes all the "meths, drones, and caterpillars" in cathedral and collegiate churches. The record, published by the Surtees Society, of the visitations in the province of York under Charles I., gives an excellent idea of the practical working of these

courts, as late as the seventeenth century.

² Liber Albus, i. Preface by Riley, p. lxxvii.

³ "Also do these lordlings They trespass much in two things, They ravish a maiden against her will, And men's wives they lead away theretill." Robert of Brunne's *Handlyng Synne*. Ed. Furnivall, p. 231.

gotten that, in times when the criminal laws appraised offences by a purely secular standard, and inflicted heavier penalties on false coining than on homicide or arson, it was of real importance to society, that some courts should exist, which might hold up an ideal of morals unconnected with the rights of property or offences against the king's majesty. Unfortunately, the church tribunals were too often noted for perversion of justice. A people's poet of Edward the Second's time declares, that a rich man might purchase licence for any iniquity from his dean; might divorce himself by false witness from his innocent wife, and take his neighbour's wife to his own house.¹ Chaucer, a little later, describes, as a familiar character, the Summoner or Apparitor, who

" Would suffer for a quart of wine
A good fellow to have his concubine,"

and who said, that the sinner's purse was the archdeacon's hell. The author of "Piers Plowman" represents Simony, in the train of Meed and Falsehood, as putting a silver harness on deans, archdeacons, registrars, and summoners, that they might bear the burden of divorces, adulteries, and usury.² The "Ploughman's Complaint," written about the same time, lashes the "gadering proctor that can the poor people implead," and the court that sells its year's licence for fornication.³ Without attaching extreme importance to the strong language of partisans, we may well believe that it was impossible, in days when the restraints of public opinion were small, to command integrity from the

¹ Political Songs. Ed. Camden Society, p. 332. Wright, i. pp. 38, 39.

² Vision of Piers Plowman, ed. Public Record Series. ³ Political Songs, i. p. 324. Public Record Series.

many different officials of practically irresponsible courts.

Besides its jurisdiction in the spiritual courts, the Church possessed the natural influence of a great landed proprietor. At the time when "Domesday Book" was compiled, it owned three-tenths in rental of the land of the country. But as monasteries were founded in every direction during the twelfth and thirteenth centuries, there must have been constant accessions to the Church manors. Great in themselves, they were exaggerated by public rumour, and two estimates of the fourteenth century describe the Church as possessing 28,015 fees out of 60,215, or even 28,000 out of 53,215.¹ These estimates, taken strictly, stand or fall with the number of knights' fees in the country, and this we now know has been grossly exaggerated. Sixty thousand fees, at an average of five hides a piece, would represent very nearly the whole acreage of England,² and would leave no land under other than military tenures, and no margin for rivers, or woods, or roads. The number of knights' fees, actually held by tenants-in-chief in the reign of Henry II., was from seven to eight thousand, and the proportion of these owned by the Church was very much nearer a sixth than a fifth.³ In

¹ Sprotti Chronica, p. 114. Robert of Avesbury, p. 264.

² Taking the hide at 100 acres, (though it was probably often 120), 30,000,000 acres. The acreage of England is put by Mr. Kemble at 31,770,615 acres. Saxons in England, i. p. 108. Mr. M'Culloch reckons it at 32,590,397 acres. Again, the knight's fee is currently reckoned at twenty librates, or pound's worth, and this must mean annual value, as the Commons, under Henry IV., estimated 100 marks as the proper

income for a knight. By this the military fees would equal in yearly value £1,200,000 in the thirteenth century; a perfectly incredible increase from the values at the time of the Domesday Survey, when the rental of all England cannot have reached £100,000.

³ I find, from the Liber Niger Scaccarii, that in twenty counties there were 3991 fees, of which 410½ were held by bishops, and 261½ by monasteries.

fact, the true charge against religious houses, and one which reformers were never weary of bringing, was that they did not contribute in the just proportion of their wealth to the military strength of the country. The tenure which they preferred to hold by was that of frank-almoigne, which discharged them from all service at council or in the field, and accepted their masses and prayers in commutation. Moreover, while land generally was perpetually parcelled out among fresh heirs, so that the number of landowners required to take up their knighthood rather increased than diminished, the Church in later centuries had no reason for multiplying its fees, and was very apt to procure exemptions. Between Domesday and the taxation of pope Nicholas IV. in 1291, the rental of church lands seems to have doubled;¹ and, allowing for some change in the value of money, we may probably assume that the Church owned from a third to half the estated wealth of England. But this was only a third of their certain revenue. The value of their spiritualties was equal to twice the royal revenue under Henry III., and to more than twice the whole rental of the lands owned by the baronage under the Conqueror. Where our kings found it difficult to procure more than a twentieth on the value of wool exported, the Church claimed and received a tenth of the wool shorn in the country. Nor were its casual sources of income insignificant. The

¹ My own calculation would make the proportion £51,429 19s. 0½d., in 1291, to between 26,000 and 28,000 at the time of Domesday. But the first estimate is based entirely on the taxation of pope Nicholas IV. (see p. 209, note 3), and dean Milman shows, from MS. records of the tithe

actually remitted some years later, that the whole property of the clergy, spiritualties and temporalities, was really valued at £208,553 12s. 6d. (Latin Christianity, v. p. 40). Either we must assume, that the first returns are incomplete, or that some change was made in the method of valuation.

shrine of St. Thomas, at Canterbury, averaged £900 a year in two years for which we have accounts. The offerings in St. Paul's seem to have been on an equally liberal scale; and the Church received in one year more than £130 for the celebration of funeral anniversaries.¹ The Grey Friars of London estimated their receipts from public charity at a third of their whole income.² But, above all, the power claimed by the Church to give probate of wills, and to administer to the personalty of intestates, was scandalously abused. In defiance of Parliament, the probate was raised from a small and fixed fee³ to a charge of one per cent. on the property, and even these limits were not always observed, as in one recorded case one thousand marks were exacted.⁴ In the case of an intestate, the canons laid it down as a principle, that one-third of the personalty, or all that remained after the legal dues of wife and children had been satisfied, should go to the Church and the poor. Under Edward I. it was found necessary to provide, that the ordinary should discharge the intestate's debts out of his property, in such manner as executors were bound to do.⁵ But even the provident gentleman, who executed a formal will, could not discharge his estate from church dues. He was bound to leave a special legacy to the parson, for such tithes and obla-

¹ Milman's *Latin Christianity*, vi. pp. 203, 204.

² "Heretofore," says Cromwell's commissioner, "the proctor hath accounted for £1000 a year, their rent of assise being but as above, £642 0s. 4½d., which costly fare, buildings, and other, was then borne of the benevolence and charity of the city of London." Wright's *Letters on the Suppression of Monas-*

teries, p. 67.

³ 2s. 6d. or 5s. 3 Henry V., c. 3. (Compare 31 Edward III., i. c. 4). The charge of one per cent. seems to have been fixed by the synod of London, in 1342.

⁴ The case of sir W. Compton brought before parliament, in 1529, by sir H. Guildford. *Hall's Chronicle*, p. 765.

⁵ 13 Edward I., Stat. West., c. 16.

tions as he might have forgotten or omitted during his life. The second best of his live stock went as a mortuary to the church in which he communicated, and this claim was afterwards extended to articles of dress, and even to arms. Men remarked, with bitterness, that the ministers of the Church discriminated between a "lean" and a "fat corpse." The friars, said the popular song, would fight for the rich man's body.

How many persons shared this enormous revenue, or what was the proportion of ecclesiastics to laymen, cannot now be certainly known. Where a single prelate might receive £3000 a year, like the bishop of Winchester, or ride to battle, like the bishop of Durham, with twenty-six bannerets and a hundred and forty knights in his train,¹ it is obvious that the inequalities of position were great. The Commons, in Henry IV.'s time, in bringing forward a scheme for the confiscation of church revenues, proposed that the parish priest should be paid at the rate of seven marks; but, unless they made allowance for tithes and oblations, this would have reduced his yearly income below that of an ordinary yeoman;² and we know that comparatively few livings were, in fact, of as small value. We tread on rather firmer ground when we come to the number of parishes. This was stated, in official returns of Edward III.'s time, to be less than nine thousand; and, as many of them were served by monks, it is probable that the number of the secular clergy, (after all allowance for those who were unbeneficed), was rather under

¹ *Anglia Sacra*, i. p. 746.

² Fortescue, fifty years later, speaks of "five pounds of rent yearly" as "a fair living for a yeoman." On

Monarchy, p. 133. It is true the priest was not expected to support a family.

than over ten thousand.¹ Unhappily, we are by no means equally able to fix, even approximately, the numbers of the regular clergy. Our imperfect lists show, that from sixteen hundred to seventeen hundred religious foundations have existed, at one time or another, in England, during the period vaguely known as the Middle Ages; and from fifteen hundred to sixteen hundred of these can be traced between the Conquest and the Reformation.² Out of these, 628 were of native monks, and 249 of friars; 120 were attached to foreign monasteries, and 426 were hospitals,³ designed for the sick and aged, but worked by a staff of clergy, chaplains and others, with whom hospital nurses were sometimes associated. The other houses were either foundations of canons (71), or belonged to the Knights Templars or Hospitalers (59). Even these latter, who were undoubtedly the most secular by profession, took vows of chastity, obedience, and community of goods, and were therefore, in tone and feeling, exclusive societies, having interests and a life that were not those of the State. The Oxford and Cambridge colleges have not been included in this list, as, though the rules and discipline of these foundations were more or less influenced by the monastic model, the fellows and scholars were mostly seculars, and the traditions of the schools of learning were always wider and more national than the conventual. But

¹ In 1371, a tax of £50,000 was assessed on the parishes at the rate of £1 2s. 3d., the assumption being that there were 45,000. The absurdity of the calculation was soon demonstrated by the returns, and the rate was raised to £5 16s., which would make the real number 8620. Rot. Parl., ii. p. 304. The instance illustrates the uncertainty of mediæ-

val statistics.

² A hundred and fifteen that are known to have existed perished, or were absorbed at uncertain dates. See Godwin's *Archæologists' Handbook* (pp. 178-180), which I have followed for most of my numbers.

³ Dugdale's *Monasticon*, vi. part ii. pp. 607-783.

they swell the vast aggregate of the extra-parochial clergy; and, while it is pretty certain that the regulars very much outnumbered the seculars, it is probable that the parish priests, the men of all others whom thoughtful reformers like Chaucer regarded as a good influence, were not more than a third of the clergy generally. In other words, while the most moderate estimate would assign a parish and separate church to every four hundred or five hundred of the population,¹ and seven men dedicated to religious duties then where one would be found now,² there were many parishes which had no resident priest, where confessions were constantly heard by strolling friars, and the sacraments administered by a monk coming on festivals, or by an underpaid deputy.

In the fifteenth century, when a strong party in the State regarded the great endowments of the Church with displeasure, bishop Pecock, a man of rare though dangerous ability, came forward as the apologist of his order. He argued that the church lands generally were better managed and farmed than the estates of the lay lords; and though his theory, that many managers are likely to be wiser than one, would now be regarded as a doubtful axiom in economy, we may easily believe that resident proprietors, who supplied less than their fair quota of soldiers, were at an advantage, compared with barons, in a period of fre-

¹ This, it will be seen, is taking the population at the highest conceivable estimate of 2,000,000.

² Professor Rogers says, "We do not indeed know what was the number of professed monks and nuns, but, reckoned along with the parish

clergy, it could not have been much under 30,000 or 40,000." *History of Agriculture*, i. p. 38. I have reckoned it at between 20,000 and 30,000, for fear of overstating the case.

quent wars. The argument, however, became less and less true, as the times grew more quiet and the gentry better economists. If the church manors had a less martial population, they supported all the more yeomen and husbandmen, the sinews of the country's industrial greatness. The great church corporations were easy landlords, and their tenants often acquired customary rights, only short of possession, over the lands they farmed. On the other hand, a few wealthy men were buying up all the small properties and extinguishing the inferior landowners, so that the position of an abbey tenant might prove in the long run more durable, if a little less dignified, than that of an independent squire or yeoman.¹ There can be little doubt, that some causes of this kind contributed to reconcile men's minds to the disproportionate revenues enjoyed by churchmen, and there is reason to believe, that the confiscation of monastery lands was partly an economical revolution, at a time when their *raison d'être* had very much passed away. But against these secular pleas for church proprietorship we must set some of its palpable disadvantages. It was the occasion of constant litigation, which certainly did not increase the people's love to religion. The abbey of Meaux in Yorkshire bought a disputed title to some neighbouring property, and pushed its suit to a judicial duel, for which it had retained seven champions, though it seems only one was engaged.² In the records of St. Alban's abbey, we find it once successfully reclaiming a country tenant

¹ So I understand the sentence, praising the perpetuity of church endowments, "rather than the said endowing were had in the laymen's hands, and by process of time should

come into the hands of temporal lords." Pecock's Repressor, ii. p. 371.

² Chron. de Melsâ, ii. pp. 97-102.

into servitude; and, on another occasion, forcing the townsmen to grind their corn and full their cloths at the abbey mills only.¹ The townsmen, in this quarrel, rated themselves all round by forced assessments to maintain their plea, and tried to enlist the queen's sympathies by a passionate demonstration during a royal visit to the abbey; but the weight of prescription was with the convent, and it prevailed. At Dunstable the leading townsmen agreed, that only two of them should attend marriages, churchings, or burials, in order that they might escape the obnoxious fees. The prior excommunicated them, and, finding that they were supported by their fellow-citizens, called in the bishop, who reduced them summarily to obedience (1228). But, in the very next year, there was a new *émeute* against a tax unjustly assessed by the prior's officers; and the people withdrew their tithes and offerings, refused to pay more than a penny for a churching or funeral, published a notice in church that no one was to grind at the prior's mill, resumed their rights of way through his fields, pounded his horses, and threatened the abbey officers who wanted to distrain for the tax. The bishop was again called in, and excommunicated the offenders; but the sturdy townsmen declared, that they would sooner go to hell than give way and be taxed. They even negotiated for land on which they might build a new town. The judges could not be brought to interfere, either not liking to indict a whole township, or believing in their hearts that the abbey was to blame. A compromise was patched up by the archdeacon of Bedford, and the abbey sold its obnoxious privileges to the town for sixty pounds.² Truly said

¹ Gesta Abbat. Mon. S. Alb., pp. 410-423, 459-464.

² Annales de Dunstapliá, pp. 110, 111, 121-124.

the mediæval tradition, that when Constantine endowed "holy kirke with lands and people, lordships and rents," an angel was heard wailing over the ruined Church.¹ The scandals of money unjustly taken, and the Eucharist profaned into a process of law, were sapping faith among the thinking classes of society, at a time when all weight of evidence was overwhelmingly for the believer against the infidel.

Moreover, the Church was a house divided against itself. Bishops and monasteries, monks and friars, while they made common cause against the State, were all anxious to encroach on the other's domain. From the first renewal of Christianity in the island, it *had* been the ambition of every religious foundation to procure special privileges for itself, and the policy of the popes had promoted the formation of jurisdictions only subject to their own authority. Thus there were at least six exempt abbots,² who had episcopal rights in their convent estates, and whose lands were little territories detached from the dioceses. By the privilege of Innocent IV. the Cistercian monks were exempted from all visitations except under papal legates, and from all citations to synods or bishops' courts except for matters of faith, or perhaps in questions of con-

¹ Sprotti *Chronica*, p. 43. Piers Ploughman, ed. Wright, p. 326. Quoted in Pecock's *Repressor* (ii. p. 350) as from Giraldus Cambrensis, but with a false reference. Bishop Pecock tries to prove that it was not a good angel.

² The abbots of St. Augustine's, (Canterbury), St. Alban's, St. Edmund's, Waltham, Westminster, and Evesham. Riley's *Pleadings*, pp. 463, 509. Battle Abbey also claimed

exemption, and though the claim was disallowed by the pope, it was confirmed by Henry II. (*Chronicon de Bello*, pp. 25, 77-104). But I cannot find the abbot inserted in any list of exempt abbots during the thirteenth century, the reason probably being that, as he did not hold by barony, his name does not often occur in writs. St. Alban's was not exempted till the twelfth century. *Gir. Camb., Spec. Ecc.*, p. 94.

tract.¹ The Templars, who were technically laymen, were supposed to claim and exercise the right of hearing confessions in the order and enjoining penances. But perhaps nothing better exhibits the hostility of one order to another, than the history of the long struggle by which the monks of Christ Church, Canterbury, during the reigns of Richard I. and John, foiled the design of two primates to establish a large collegiate church for canons, who should be men of learning. No plan, it might be thought, could be more harmless or pious. But the monks dreaded, that estates, improperly alienated to their foundation from the see, would be reclaimed for the new endowment: and foresaw, that a body of canons, largely recruited from the English bishops, might in time claim to elect the primate in exclusion of the convent. They appealed to the pope's jealousy, by representing it as a scheme for making an English patriarch with a body of suffragans, whose jurisdiction would gradually supersede the Roman. Every resource of chicanery, and even violence, was resorted to on the two sides. Fraudulent inductions, tampering with envoys, appropriate visions, bribes to the pope's household, alternated with excommunications, and even with a blockade of the monks, who were kept prisoners for eighty-four weeks, receiving all their supplies from the alms of the faithful. Our kings sided with the archbishops, and a similar

¹ An amusing instance of the working of rival privileges occurs in a lawsuit between the abbey of Meaux and the nunnery of Swine. The abbey being cited into the archbishop's court procured a papal commission, and forced the archbishop's official to renounce his claim of juris-

diction. But the nuns refused to appear before the pope's commissioners, and were only reduced to terms at last, on finding that the sentence of excommunication pronounced against them would be enforced by the secular arm. *Chronica de Melsá*, ii. pp. 12-22.

political instinct decided the popes to give judgment for the monastery. The dignity of the country was so far saved, that the decision was pronounced formally as the verdict of arbitrators, but the English Church, in its most national form and its highest representative, was none the less beaten decisively.¹

By the beginning of the thirteenth century the monasteries had already been tried and found wanting. They were demoralized by their own success; and, while many were discredited by crying scandals,² the more estimable could only put forward the claims of decorous lives, large properties well administered, and perhaps traditional learning. Six hundred foundations were scarcely needed for the support of harmless respectability and a few schools and libraries, at a time when the people of England had shown themselves able to dispense with a Church altogether, and when the pauper, the leper, and the fugitive slaves were multiplying with terrible rapidity upon our growing cities. In the absence of all efficient church reform, the Mendicant orders arose to supply the new needs by a new machinery. There are few grander pages in history, than the record of the privations and sufferings, by

¹ For an excellent review of this struggle, I must refer the reader to Professor Stubbs's preface to the *Canterbury Letters*, in the *Memorials of Richard I.*, vol. ii.

² Thus the charges brought against Roger Norreys, abbot of Evesham, include homicide, notorious unchastity, perjury, habitual neglect of the rule, and ill-treatment of the monks. He was deposed after much difficulty, the legate giving, as his sole reason, that it would be more scandalous to keep than to dismiss him.

Chron. de Evesham, p. 250. The *Speculum Ecclesiæ* of Giraldus Cambrensis, and the book *De Nugis Curialium*, ascribed to Mapes, are perfect repertoires of scandalous stories against the monks, especially the Cluniacs and Cistercians. In general our monastic annals, which seem candidly written, point rather to the love of money and litigation, neglect of religious duties, and love of good living, than to that habitual immorality of which public opinion is most jealous.

which the Franciscans triumphed over public opinion in England. When the sister of the first novice brought him out the dole of food he begged at her door, she turned her face from him and cursed the hour in which she had ever seen him. Taking no thought for the morrow, living on meagre pittance often of the most repulsive food, huddled together that they might fight through the bitter winters by animal warmth, walking barefoot through deep snows, tried by all the diseases which austerities can induce in weak frames, disliked, envied, and annoyed by the established orders, and sustained through every difficulty by the faith that sees visions, and whose inner life is the miraculous, these men retrieved two generations to the Church, renewed decaying learning, and broke up the rotten conventions of the decrepit hierarchy.¹ The Dominicans, especially, as preachers, the Franciscans as confessors,² invaded every parish where there was work neglected or work to be done, and their missionaries went into all lands to bring back the knowledge, that was then priceless to merchants as now to scholars. It is good proof of the ability with which the new orders met the new necessities of their time, that their success was especially great among the three classes who were most essentially modern, the thinker, the merchant, and the unprivileged townsman. St. Francis himself distrusted secular

¹ See the *Monumenta Franciscana*, pp. 1-33, or, still more, Professor Brewer's admirable preface, which I have plundered freely.

² It must be remembered that, in the opinion of so learned a theologian as Giraldus Cambrensis, a layman might baptize, hear confessions, and administer the host and extreme unction in cases of necessity. *Gemma*

Eccles., pp. 14, 47. The seculars, however, never admitted this. Grosse-teste would not allow deacons to hear confessions. *Epistolæ*, p. 160. And all priests have not power For to assoil thee right clear, But it be thy parish priest, Or have his leave at the least. Robert of Brunne's *Handlyng Sin*, ed. Furnivall, p. 360.

learning. "The habit and one little book" were to content the first brethren. But this dislike attached especially to the profane legal studies, which attracted so many churchmen, and to the classical scholarship, whose associations were all of un-Christian culture. Adam de Marsh, one of the first Franciscans, was undoubtedly a learned man, but he rarely or never quotes a classical author.¹ Roger Bacon had laboured from his youth up "at the sciences and the tongues," with a devotion that modern times can scarcely comprehend, not only dedicating his own fortune, without reserve, to the cost of books and experiments, but borrowing largely from his family and friends. Among the precursors of modern science there is no greater name than his, who seems to have measured the capabilities of human thought. But he yielded to the strange fascinations of an order, that could not yet understand its sublime proselyte, and when he was at last permitted to give to the world, what his heart burned within him to say, his conceptions of science had lost their secular import, he regarded all philosophy as contained in the word of God, and desired that all church government should be framed upon the model of the Hebrew polity.² In Duns Scotus, "the subtle doctor," we find the professed theologian; and, in his disciple Ockham, the political churchman. Both are so far influenced by the scientific tendency, that they disregard the realistic conception of a necessary order of the world. Christ, says Duns Scotus, might have taken the nature of a stone, as well as of a man, to save

¹ Monumenta Franciscana, p. cxxxvii. Mr. Luard has, I think, pointed out one exception. Preface

to Epistolæ Grosseteste, p. xc.

² Bacon, Opera Inedita, pp. 82-84.

the world.¹ Ockham carries the same view further, by observing that God might have made a different moral world.² Each regards religion as the one real force in the world, to which every other interest must be sacrificed; but, while Duns Scotus applies this, in the interests of intolerance, to baptizing the children of Jews forcibly, Ockham, whom circumstances had made more revolutionary, concludes from it, that religion is of more importance than its ministers, and that the Church may depose the pope.³ Both have derived from their founder a little of the large charity that inspired him. Duns Scotus believes in a future, though inferior, state of beatitude for animals; and Ockham decides, that no man can be called a heretic, unless he deliberately reject the first principles of religion.⁴ The distinctive doctrine of either thinker is also connected with the secret of his order's popularity. Duns Scotus was specially devoted to the dogma of the Immaculate Conception;⁵ and their peculiar reverence for the Virgin made the Franciscans favourites among women everywhere.⁶ In return, they were the one religious order that promoted marriages. Ockham, on the other hand, held the doctrine promulgated by Michael di Cesena, that as St. Francis professed absolute poverty, and the antitype could not be greater

¹ Duns Scotus, In Lib. Sent., iii. Dist. ii. Compare Novalis (Band. ii. s. 185.) "Wenn Gott Mensch werden konnte, kann er auch Stein, Pflanze, Thier, und Element werden; und vielleicht gibt es auf diese Art eine fortwährende Erlösung in der Natur."

² Ockham, Cent. Theol., Conc. vi. In Lib. Sent., ii. Quæst. xix. o.

³ Duns Scotus, In Lib. Sent., iv. Dist. iv. Quæst. 9. Ockham, Dialogus, lib. vi. c. 64.

⁴ Duns Scotus, In Lib. Sent., iv. Dist. xlix. Ockham, Dialogus, lib. vii. c. 7.

⁵ Duns Scotus, In Lib. Sent., iii. Dist. iii. q. 1.

⁶ There is a curious and rather fine passage in the Dialogus of Ockham (lib. v. c. 32) in which he argues, that the Church might consist of women alone, as "at the time of the Passion of Christ, the whole faith of the Christian Church abode in the Mother of Christ."

than the type, the renunciation of all wealth was an absolute condition of Christianity.¹ The opinion was the sublime of unreason, but it came with terrible cogency at a time, when one pope had left nearly 2,000,000 florins of gold, and another was trying to seize the inheritance to his own use. All the vague communistic feeling, that wells up from the bitter waters of poverty, was in alliance throughout Europe with the Franciscans.

The gradual decline of the brethren from their first high purpose and exemplar of holy life is only the oftentold tale of institutions perverted from their expressed design, and enthusiasm replaced by a mechanical discipline. But the very prosperity, that proved fatal to the Mendicant orders, is proof of their wide influence upon society. The rule of poverty, which was the one condition of unimpaired moral excellence, proved impossible to enforce, when the friars were the most welcome guests of every village and farm. The irregularities of licentious hypocrites escaped punishment, because the order had become a power in the State before it forfeited respect. And, during the first century of their foundation, there is little doubt that the influence of the Mendicants was powerfully in favour of religion. Before their rise, infidelity had become fashionable at the universities and among the clergy;² there were signs in France and Germany, that the lower classes were thinking out strange heresies in default of doctrinal teaching from their appointed guides; and simony, incontinence, and habitual disregard of their

¹ Milman's *Latin Christianity*, v. p. 276. For a full account of the systems of Duns Scotus and Ockham, I must refer the reader to Ritter's *Geschichte der Christlichen*

Philosophie (Band iv.), upon which this notice is partly based.

² *Gir. Camb., Gemma Eccles.*, pp. 148, 149, 285. Compare a story in Wood's *Antiq. Univ. Ox.*, p. 71.

Duties were common characteristics of priests and monks. But between Giraldus Cambrensis and the author of *Piers Ploughman* there is an entire change. Bishop Grosseteste is at least as good a man and as ardent a reformer as either, but his energies are mainly directed to putting down the abuses of pluralities and non-residence, to asserting his episcopal jurisdiction against the civil power and the rival church courts, and to promoting Biblical learning and the observance of Sunday. He complains, from time to time, of disorderly monks, or of priests who insist on living as married men; but his censures are rather directed against a faulty discipline, than against actual connivance at gross scandals.¹ Of infidelity or false doctrine, neither he nor the writers of the next two reigns know anything; and when the English Templars were tried on charges of this sort, by a court resolved to convict them, it was impossible to procure evidence, except of so loose a kind, that a modern court of justice would not listen to it. As the teachers disappeared, the impulse they had given to education, divested of their restraining influence, turned thought again into the old channels, and young men began to talk against the Trinity, or to doubt the story of Eve tempted by the serpent, and the consequences of primal sin to the human race.² But it was long before the parochial clergy forgot the wholesome lesson which they had received. Exposed to the invasions of an organized and highly popular dissent, that shared their

¹ Grosseteste, *Epistolæ*, pp. 317, 319. In spite of all canons, there is no question that many of the clergy were actually married, the Council of Oxford, in 1222, legislating against this, and Grosseteste renewing the prohibition sixteen years later. (*Epi-*

istolæ, pp. 157, 164). Offensive terms, imputing concubinage to them, must therefore be taken with large reservations.

² *Piers Ploughman*, ed. Skeat, p. 125.

duties and usurped their influence without dividing their responsibilities, they reverted to the ideal of a blameless life, and, with the instinct of class, made themselves the exponents of the growing national feeling, and were steadily for England against Rome.

It is a little difficult not to exaggerate the wide power which the Church of the Middle Ages undoubtedly exercised over society. Its tribunals, its wealth, its control of learning, and its numbers amply justified its position as a separate estate of the realm, and partly gave it the control over spiritual freedom, for which it undoubtedly contended. But human nature is apt to revenge itself on artificial systems by asserting an irregular liberty. The Church could compel congregations, but they carried secular life with them to the very precincts of the altar, and chaffered or told tales during the sacred service.¹ The priest was inviolable before the law, but if he were put out of its pale he became at once fair prey for the laity, and was plundered without regard to his orders. The sentence of excommunication, that seems so terrible when we read of it, was habitually disregarded by any man who could put in a legal plea to show that it had been unrighteously pronounced; and it was in fact nothing more than a church writ. Nor were the terrors of hell a weapon that the clergy could wield unreservedly. The merciful doctrine of the Middle Ages taught, that penitence and prayer were stronger than the powers of evil; that Judas had been damned, not for betraying Christ, but for doubting of God's love; and, that shrift was the gate of heaven which opened even upon the pit of hell.²

¹ Robert of Brunne's *Handlyng Sin*, p. 143.

² Robert of Brunne's *Handlyng Sin*, pp. 377, 385.

In proportion as students multiplied, the incongruity of connecting learning with the profession of orders became apparent, and lawyers, physicians, and poets pursued their separate callings without aid from the Church. The assistance which Edward I. invoked from the universities against the pope was in itself ominous of the time, when the great seats of learning should not only be a separate power within the hierarchy, but rival influences in thought and faith. It was not till the evil days, during which the declining Church rested for support upon its privileges and the secular arm, that it can be said in any real sense to have retarded human progress. During the thirteenth century, at least, it was so sure of its strength, so deeply rooted in sentiment and traditions of culture, so fruitful in thinkers and martyrs, that it could tolerate the largest discrepancies of opinion and encourage the most fearless enquiry. The most wretched among men of genius was Roger Bacon, whom the jealousy and formalism of his order condemned to a virtual inaction of ten years; yet we may fairly set against this temporary deprivation the facts, that Roger Bacon had been familiar at court, had spent a large fortune in his pursuits, was the friend of the greatest prelate of those times, and was finally drawn from his obscurity by a pope.¹ Among the opponents of papal power no modern writer has been more audacious than the Franciscan Ockham, who proved, in the ponderous dialectics of his day, that the actual pope

¹ The reason of Bacon's suspension from literary work seems to have been, that he could not find copyists of the order, and his superiors would not allow him to dictate to strangers, for fear of his treatises being pirated. But, as he set to work at last in de-

fiance of their prohibition, it seems certain that he was not imprisoned. *Opera Inedita*, ed. Brewer, pp. 13, 15. For an anecdote of his jesting with Henry III., see Paris, *Hist. Major*, p. 386.

was a heretic, and that it was possible for all the Church of adult men and women to fall away from the faith; yet Ockham escaped all punishment during his life, and died with the reputation of an orthodox doctor. The Church, which persecuted the Albigenses because it regarded them as dangerous, would, no doubt, have suppressed free thought in the small class of highly educated men, if it had believed that its own existence was at stake. But, it was the singular fortune of the times, when all progress might have perished in a retrograde movement, that the established faith was so intimately bound up with the highest philosophy, that no man anticipated a coming time of separation. It is not till the twilight of dawn is broken, that something is found to have faded away, something to have changed its outline, where much has become clearer and more beautiful in the new light.

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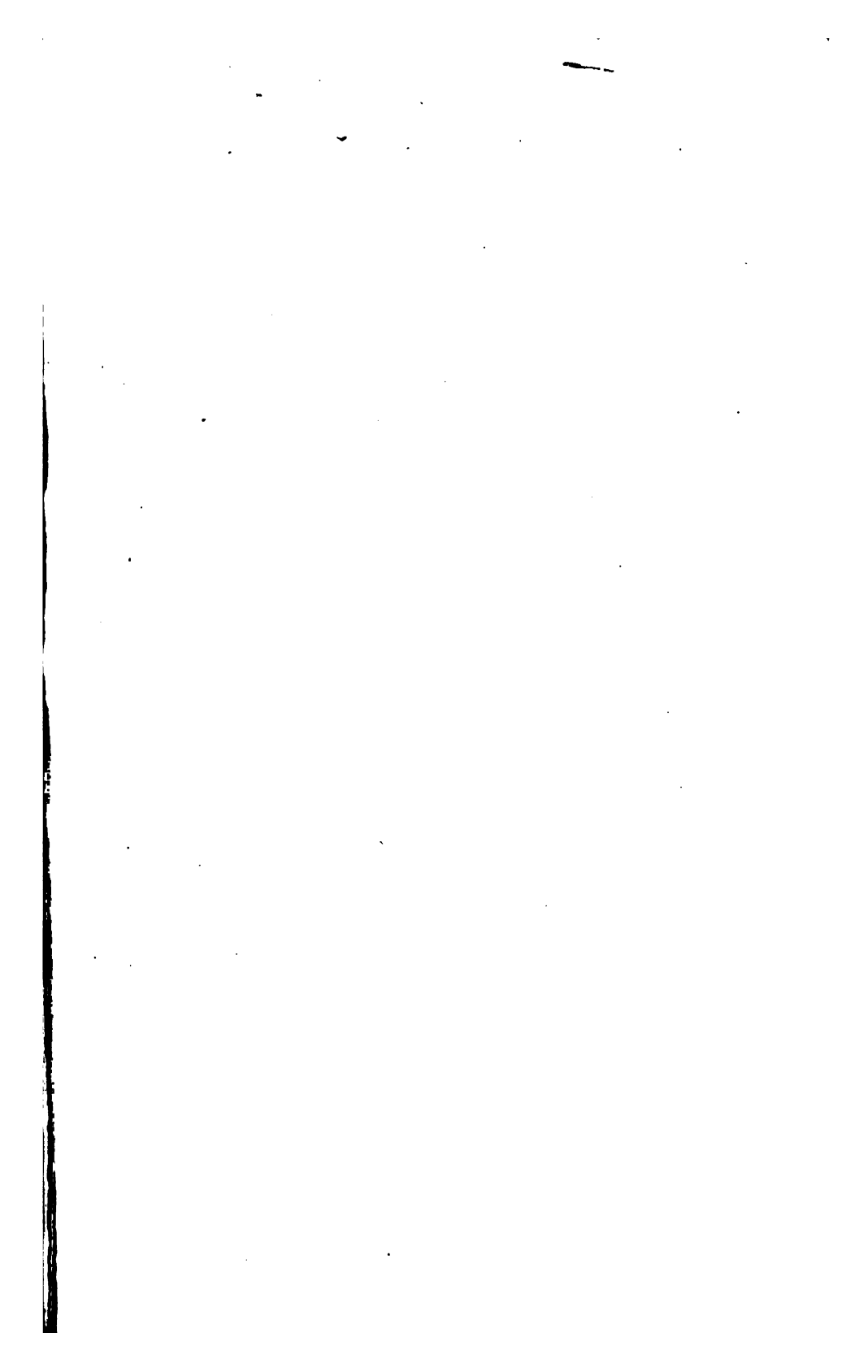
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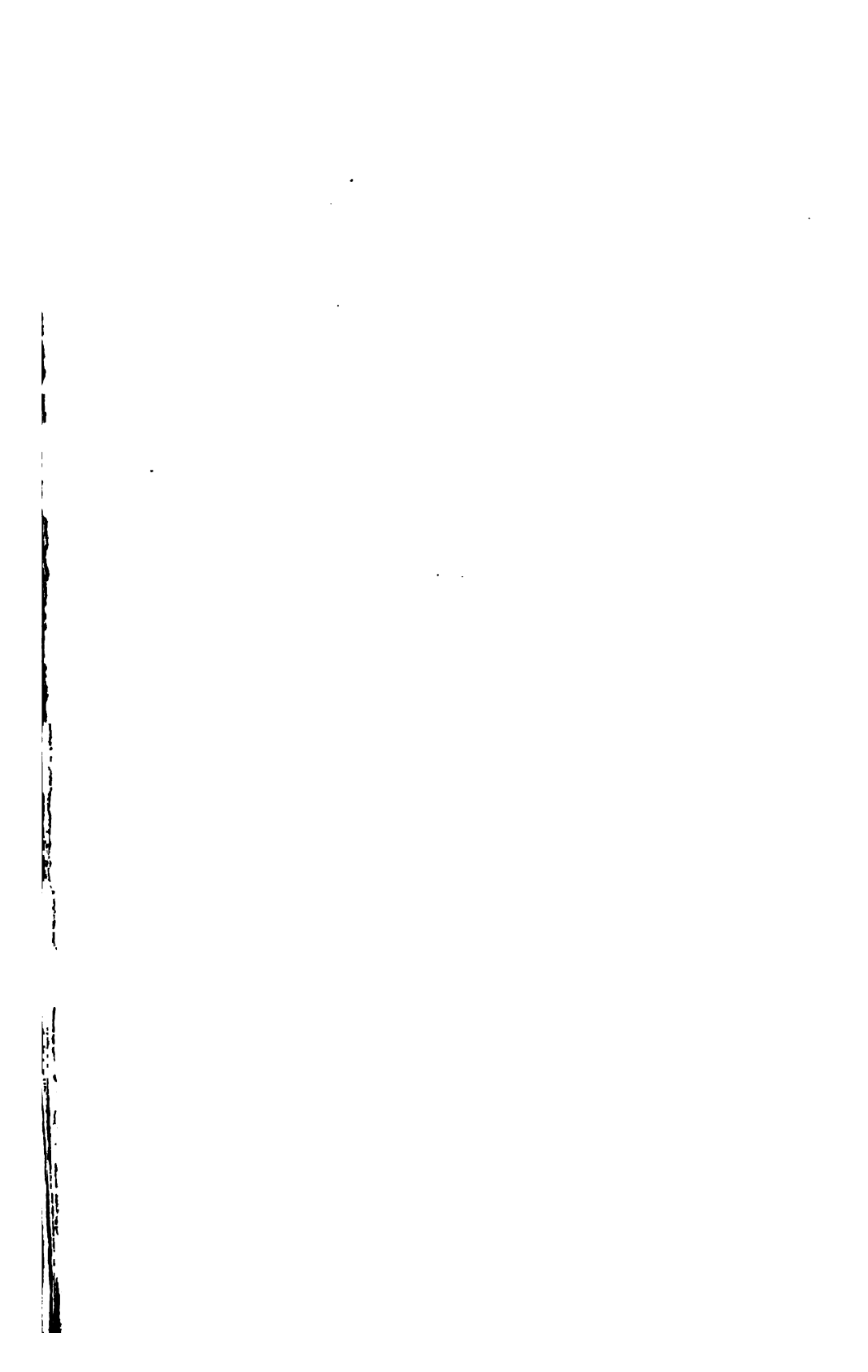
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